

**PROPOSALS THAT WOULD ALLOW PUBLIC TRANSIT
OPERATORS TO PURCHASE TRANSIT SERVICE
FROM PRIVATE OPERATORS WITH THEIR FEDER-
AL CAPITAL ASSISTANCE**

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BEFORE THE
SUBCOMMITTEE ON SURFACE TRANSPORTATION
OF THE
COMMITTEE ON PUBLIC WORKS AND
TRANSPORTATION
HOUSE OF REPRESENTATIVES
NINETY-NINTH CONGRESS
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PROPOSALS THAT WOULD ALLOW PUBLIC TRANSIT OPERATORS TO PURCHASE TRANSIT SERVICE FROM PRIVATE OPERATORS WITH THEIR FEDERAL CAPITAL ASSISTANCE

THURSDAY, APRIL 11, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SURFACE TRANSPORTATION,
COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION,
San Diego, CA.

The subcommittee met, pursuant to notice, at 9:30 a.m., in room 358, County Administration Building, 1600 Pacific Highway, San Diego, CA, Hon. Glenn M. Anderson (chairman of the subcommittee) presiding.

Present: Representatives Anderson, Moody, Bates, and Lowery.

Mr. ANDERSON. The Subcommittee on Surface Transportation will come to order.

As the public transit program is coming under increasing attack from the administration, the subcommittee is meeting today to explore one of the proposals that have been made that may help efforts to sustain and improve upon the level of transit service that the people of this country have come to expect.

I don't think that anybody in this room would argue that mass transit is an important public service, and one in which the Federal Government has a vital and legitimate role.

Yet, the administration, in its proposed budget, would eliminate all Federal operating assistance, all funding for new rail starts and rail extensions, and reduce by about 70 percent the Federal commitment to public transit.

In hearings we have held in Washington, and in past years around the country, the subcommittee has ascertained that the administration's proposal would have a devastating impact on both big cities and smaller communities.

In San Diego, for example, it is questionable whether you would be able to build the extension of your rail line, which has been discussed.

Certainly, fares on your bus system would be increased and service curtailed. But you are among the lucky ones. Bus systems in other communities across the Nation would simply have to shut down.

I am hopeful that a broad coalition of interests will rise up to defeat the administration in its efforts to withdraw Federal support for mass transit.

But, clearly, the administration is forcing us to reexamine the systems we have in place presently. Necessity is the mother of invention, and it may be necessary that we look to innovative solutions to the problems posed by the administration, particularly if transit service is going to grow to keep pace with the growth of our communities.

Of course, none of us can believe there will be much hope if the administration gets its way on the transit budget. But Congressman Moody has put forth one proposal that is worthy of our subcommittee's review, and it is for that purpose that we are meeting today.

There is a reason that cities around the country turned to public transit in the 1960's and 1970's; the private sector was simply unable to turn a profit providing the range of services at a price that people should expect to pay.

That does not mean that there is not a role for private transit providers. Public transit operators are contracting out for specialized services for repairs and overhauls and for administrative services.

Perhaps, though, there is more that the private sector can do to help assure that the public has the types of transit service that it needs if our cities and communities are to remain livable in the face of administration budget cuts.

I look forward to receiving testimony on that issue this morning.

And before I turn to our witnesses, I would like to perhaps first recognize Mike Lowery, who is our local San Diego Congressman. I understand we are not exactly in his district.

Mr. LOWERY. Bill Lowery.

Mr. ANDERSON. Bill, this is not your district, I know, but it is close enough to your district so you can welcome us, Bill, and I will apologize to Mike when I see him. [Laughter.]

Mr. LOWERY. Mike and I both served on the Banking Committee, and we continue to cancel out each other's votes.

Mr. Chairman, we are delighted that the Surface Transportation Subcommittee of Public Works and Transportation is in San Diego to hold hearings on this important issue.

Jim, I commend you for the innovative approach that you are taking on this legislation.

We San Diegans are quite proud of our trolley. We have built it thus far without Federal moneys and would like to extend it to East County. As you are aware, my colleagues and I have been diligently pursuing this issue everywhere we can on the Hill to find an additional \$29 million to complete it, and we would hope the committee will keep that in mind during consideration of the fiscal year 1986 transit budget.

Mr. Chairman, I share your concern over the rather draconian approach that the administration took in its budget message last February. I think the actions of some of our colleagues in the other body this past week with the administration compromise that was reached; they have a phaseout that is a little more realistic to local transportation systems in the country.

And, hopefully, if Jim's bill gains support with our colleagues and becomes law in conjunction with an administration phaseout, we can lick this problem and do it in a cost-effective way.

I am looking forward to hearing from the witnesses, not only from San Diego, but elsewhere in California. Again, Mr. Chairman, I am delighted your subcommittee is here. There are four of us that represent San Diego, and it is such a congenial, small metropolitan community, we all kind of overlap and we all try to help out each other; and, certainly, the issue of transportation is one that impacts on Ron Packard, Jim Bates, Duncan Hunter, as well as myself; and on behalf of my colleagues we are delighted to have you and welcome you to San Diego.

Mr. ANDERSON. Well, thank you, Bill, for your nice welcome, and I want you to know that I am not from San Diego, but I consider myself almost a part of San Diego, and I have been involved in all kinds of things for this area. You may not know it but before I went to Congress, I was on the toll bridge authority, the only southern Californian on it, and I made the motion and pushed the legislation that built the Coronado Bridge.

At that time, some of the admirals in Coronado didn't like it. They were testifying against it; but I notice now since we have got the bridge up and everybody likes it, on their letterheads is a nice big bridge; and they think it is wonderful.

I am aware of your area, and we are very proud of San Diego. Up where I come from, we say there is only one thing San Diego has that is better than we have in the Los Angeles/Long Beach and that is your weather.

And, it is—it is a little warmer, a little nicer; but not enough so that anybody is going to leave from up there and come down here. [Laughter.]

Mr. LOWERY. Just Signal Co. and a few others.

Mr. ANDERSON. At this time, I would like to also welcome to California Congressman Moody of Milwaukee. Congressman Moody is the one who is responsible for these hearings. He is the one that has this legislation that we are holding the hearings on, and I think he really wanted an excuse to be able to come out to California. Congressman Moody, I know you may have something that you might want to say.

Mr. Moody.

Mr. MOODY. Thank you very much, Mr. Chairman. I do want to say how much I appreciate your bringing these hearings to San Diego. I think this is an interesting area of the country where they are experimenting in a variety of ways with some of the problems of rising costs and rising difficulty in financing the system. They have got a fast-growing area; they have got suburbs; they have businesses; they have cities; they are required to use a lot of innovative ideas to try to get their transportation problems solved here. This is a laboratory to look at it.

Also, I thank Bill for welcoming us, and also Congressman Bates who will be along later on.

I want to take just a minute to discuss the proposal today and a little bit of background about what led me to introduce it.

All of us who care about transit recognize that transit management tends to be faced with an extraordinarily difficult set of fiscal problems in the 1980's and beyond.

We are faced with a proposal which seeks to eliminate operator leases altogether. I do not think that will be entirely successful but

they have been able over the last 4 years plus to see that transit subsidies have been substantially cut to the operative side.

About a 16-percent cut since the pre-1982 level. Transit is now competing more and more with local budget support for other programs.

It has also suffered in long-term responsibility and funding.

Furthermore, we have been in many locations ridership actually decline, so in a sense, the intensity of the service has been reduced; schedules have been cut back and pared. The probability is, therefore, it has been under some pressure as a result of the fall in—on the cost side, transit costs have gone up in a gigantic amount by almost anyone that is in an accounting system.

One estimate is that they have gone up about 436 percent over the decade of the seventies, and they are still going up during the eighties.

Some systems, costs are up 60 to 97 percent above the inflation rate, which has been taking place at the same time. So, this is really inflation. There is something going on. The cost structure trends are very, very serious.

In the same place, the demand in services in an extensive sense have increased. There are areas crying for service, and some groups, such as the handicapped, are insisting that they have service, and some taxpayers in dense and not-so-dense areas are insisting that they get service when they have not had it to date.

So, you can see the counterpressures that are building.

Now, in response to these pressures, some agencies have raised fares and cut services.

But this approach itself, of course, leads to a downward spiral of ridership and retrenchments, as jurisdictions, in some cases, are dropped from the system altogether. We can see this peeling off of transportation systems under these kinds of pressures and that certainly has very negative side results.

It seems to me that it behooves us to see if there aren't other ways to incur more efficient utilization of existing transit resources.

If we can increase the cost efficiency as compared to services, and we can get more service for the dollar that we spend, then the riding public can benefit and, of course, the taxpayer who overwrites the cost overruns.

I believe that the one way, and certainly not the only ingenious—is through the selective use of competitively bid service contracts with the private-sector transit operators. Underutilized private-sector transit resources do exist, in a variety of taxicabs, van operators, bus companies who have and use their own equipment, own capital equipment. Often these operators can provide services at far lower costs than the public counterparts can do. Studies have shown this, that savings systematically appeared to 35 to 70 percent below the costs of comparable services in the public sector. And that's a lot of money.

Unfortunately, these private operators face a number of barriers with the present lot of laws to greater participation in solving our public transit problems.

The bill, which I introduced last session, which will be discussed today, H.R. 5165, attempts to remove one of these barriers. Appar-

ently, private operators who would like a service contract must compete against publicly owned buses that are 80 percent subsidized by their government while they, themselves, carry the full capital cost of their own equipment.

Thus, the local agency has an incentive, the local public agency, to provide their own buses and provide the services themselves rather than consider the potential advantages of private contracting.

My bill would attempt to even out those incentives by taking the capital equipment leasing approach. They would be offered the choice of buying either new buses to provide service, or using a like-amount motive to purchase competitively bid services which would have capital provided by the private contractor.

I am sure there are a number of other ways to achieve the goals that you would all agree with, fair competition as well as efficiency. And I have not reintroduced my bill this year, so the new legislation which I will introduce can take advantage of the information and feedback from testimony such as we are about to hear today.

Perhaps it would be simpler in some sense simply allowing capital money to be transferred into the private, competitive service area. Perhaps it would be simpler to—up to some number, say 20 percent of their total funds for competitive contracting.

Perhaps a different matching ratio, say 60-40, and lessen the capital ratio in recognition of the fact that the operator components of these private contracts do have—but higher than 50-50 in the current ratio for operating subsidies in the present capital costs are indeed there. It's not either pure capital or pure operating system. It's a mixture. Perhaps the formula would be something in between.

There are many other suggestions that one could examine. The real bottom line here is that economic theory and practice has consistently shown that introducing competition tends very powerfully in many ways to reduce and restrain costs and eventually prices.

For far too long, the transit—have permitted a monopoly, a shielding from competition. Virtually the private sector, and we saw many private companies that had their own—companies, and then later publicly—that we witness today.

Now I am not proposing that we return to privatization in the sense that was sometimes used in the days of—or in the sense of the old private monopolies which we once had which failed. And I'm not proposing that we relinquish public control over policy, over prices, over routes, or service issues such that you would do if you went to full privatization.

But I am proposing that we look at ways, including this one, to increase competition and to control costs, in provision of the vital public service being returned.

Again, Mr. Chairman, thank you very much for coming to California and certainly our great staff for having us here today.

Mr. ANDERSON. Well, thank you, Congressman Moody, for your remarks. At this time I would like to present some of our staff members here today.

At my extreme left is Suzanne Cartwright from Congressman Moody's staff, and we have Susan Fry, the assistant minority counsel of the Investigations and Oversight Subcommittee of the Public

Works Committee. She is here representing Gene Snyder, the ranking member on our full committee, Bud Shuster, who is ranking on our subcommittee, and Newt Gingrich, ranking on I and O.

But more than that, she is here to keep her eye on Paul and make sure he does a good job.

And, of course, Paul Schlesinger, at my immediate left, is the professional staff member for this subcommittee.

I think we might as well get on with our witnesses, and our first witnesses will be Wendell Cox and Dr. Roger Teal, of the University of California, Irvine.

Both of you have prepared statements, that are rather long, so they will be made a matter of the record as you have submitted them. So as you present them, if you could move a little bit faster, we would appreciate it. Wendell, do you want to go first?

TESTIMONY OF WENDELL COX, PRIVATE CONSULTANT; AND DR. ROGER F. TEAL, ASSISTANT PROFESSOR OF CIVIL ENGINEERING, UNIVERSITY OF CALIFORNIA, IRVINE

Mr. Cox. Thank you, Congressman Anderson. It is a pleasure to speak to you, Mr. Lowery, Mr. Moody, and the Congressman's staff.

I have been since 1977, until very recently, a member of the Los Angeles County Transportation Commission, having been appointed for three consecutive terms by Mayor Tom Bradley, and confirmed by the city council.

Now, further, in recent years, I have been chairman of the American Public Transit Association Governing Board Members' Committee, and the planning committee of APTA, and within the last 2 weeks have resigned from the commission in order to pursue a full-time career in independent consulting frankly because of my belief in the ability and appropriateness of utilizing the private sector in partnership with the public sector to preserve and improve urban mobility.

So, I speak to you today as a consultant but additionally as someone who very recently and rather intensively for the last 8½ years, has been involved in the provision of public transit service.

I am here beyond that to applaud the courageous efforts of Congressman Jim Moody with respect to his proposal that would create greater incentives to involve the private sector in public transportation services.

In 1964, Congress passed the Urban Mass Transit Act, which required that public transit agencies utilize private operators to the maximum extent feasible.

In fact, contrary to the intent of Congress, they have been used largely to the minimum extent feasible.

Instead, transit has rushed into a monopolistic service provision structure, in which omnibus regional agencies have been established in the hope of attaining coordination of service and economies of scale.

The results, I am sorry to say, have not been very favorable. Costs have risen far beyond anyone's expectations, and there is plenty of confirmed evidence having a single transit operator is not necessary to the provision of a coordinated regional system; cer-

tainly the experience locally in San Diego and Los Angeles proves that point quite well.

A heavy price has been paid by the public for this move toward monopoly in public transit. As usual, transit in 1985 faces a fiscal crisis. This fiscal crisis has nothing to do whatsoever with the administration's proposal to phase out operating systems. It has to do largely with the fact that the transit costs continue to rise far in advance of the increase in public revenues and inflation.

They are simply out of control.

From 1976 to 1982, transit costs nationally rose 61 percent per mile above the inflation rate. In Los Angeles, they rose 78 percent above the inflation rate. In fact, in Los Angeles, the recently approved Long Beach Light Rail Line which I was privileged to vote in favor of in my last commission meeting 2 weeks ago, that light rail line, for \$600 million, we would be able to build with the excess of costs increases over inflation from 1976 to 1984.

If we had kept our costs in line in Los Angeles, we could have built it with that money.

For the last 2 years, the major public transit operator in Los Angeles has submitted midyear budget adjustments which have exceeded the inflation rate all by themselves.

Now, it has become somewhat traditional in the transit industry for people to blame this all on labor, and that is an oversimplification.

Figures indicate that over the last decade in terms of cost of driver labor and fringe benefits has actually declined in percentage of transit costs nationally. The fact is that all transit costs are out of control. There frankly is no hope for getting transit costs under control under the existing monopoly structure.

The situation is so grave, again, not arising out of the present proposals but arising out of what has gone before, that the Port Authority of Allegheny County in Pittsburgh has voted to close the system in June. And nobody believes they will really close, but the fact is they are going to be out of money in June, and that is before the Reagan proposal would take effect.

A heavy price has been paid by the riders and the taxpayers. Fares have routinely in recent years been going up faster than inflation. Services have been cut, and there have been proposals for new taxes.

In short, transit services are not sustainable under the present set of circumstances.

The problem in transit, however, is not insufficient revenue, and I am not making a comment now with respect to the Reagan proposal, but a comment with respect to where we are today. The problem is not insufficient revenues; it is that costs are out of control.

Now, that is not because transit management has failed or because transit boards have failed. It is because the structure makes transit unmanageable. Monopolies tend to maximize revenues, and they tend to impose products in markets without respect to the needs of the customers. Both of these are very characteristic of transit.

What is needed in transit is basic structural change.

The antidote to monopoly is competition, and around the country competitive contracting is increasingly being utilized by public authorities to provide services at between 35 and 70 percent less than their public equivalent services for identical services.

Beyond that private cost increases have been less than the rate of inflation and thus far less than cost increases on the public side.

In this new emerging relationship the role of public agency moves more toward setting of fares, the establishment of services and schedule, coordinating services and the holding of the franchise.

This movement toward more private sector involvement by competitive contracting is by no means a return to the service provision alternatives of the 1950's and 1960's, which proceeded to public takeover.

Beyond that, there is no reason that any transit jobs need to be threatened by this movement. The fact is that employer attrition rates are sufficiently high in the transit industry that we can utilize that rate to bring in a contracted program, at the same time preserving the jobs of existing employees.

And looking at the industries in this Nation that have been hurt by competition from elsewhere, speaking specifically of the steel industry and the auto industry provides a lesson.

How many of those employees who have lost their jobs would not, thinking back, like to have found a way to perhaps have permitted productivity improvements with respect to new jobs for the industry rather than losing their jobs?

And I am here to tell you that the situation in transit is becoming so grave—again having nothing to do whatsoever with the administration's proposal—that before long the day is going to come that people are going to start losing jobs. At least two agencies are considering that right now.

Now, one might argue that contracting is rising and therefore there is no need for the Moody proposal. However, in fixed-route, conventional transit including the specialized transit services that Mr. Moody's bill attempts to deal with according to the 1983 section 15 data, only 12 percent of the systems in the United States are contracting for any fixed-route service, whatsoever.

And of that 12 percent only 2 percent of the hours of service are contracted and of that three agencies represent more than half so what is shown in these Federal figures that New Jersey Transit has a very effective and large contracting program, and is largely an exception otherwise. It is growing but the potential is much greater.

Now, there are frequently mentioned a couple of problems with contracting. One is that we are moving back toward a program that failed, the old private tradition of services, that the private operator will skim the cream and leave the transit district the worst routes.

Well, under the contracting proposal that we make and that are being utilized around the country, it must be remembered that the public operator retains full policy control for the system, and therefore the private operator is not coming in and taking routes away; the public agency is deciding which route shall be contracted, and

which route shall not be contracted. The public agency guarantees the service and obtains it at the most favorable cost.

Another argument of contracting has been that a single regional operator is needed to provide coordinated service. Well, again, the experience shows that that simply is not true. Under the contracting arrangement, the elements of coordination, schedules, and transfers are controlled by the public agency, and there are coordinated, integrated regional systems in many communities around this Nation that are provided with multiple private and public operators.

San Diego, Suffolk County, San Francisco, Chicago, Minneapolis, are examples, and the list goes on.

The Moody proposal will increase incentives for transit organizations to utilize private contracting where it is more cost effective. And, indeed, there is a need for those kinds of incentives. It is proven by APTA's very vigorous support last year of proposals with respect to the section 9 program, which would have made it possible for a transit agency to continue to turn in \$3 for every \$2 of capital money, and trade in \$3 of capital, in other words, in order to obtain \$2 of operating.

In fact, the Moody proposal, I would think would be supported even more by the transit industry inasmuch as it is \$1 for \$1, rather than losing \$1 along the way.

Contracting is not new; it is not an aberration. It has been utilized by transit districts for the last decade and a half for elderly and handicapped services; and throughout history has been used by the school bus industry to provide services.

In fact, in the school bus industry, nearly 40 percent of the students are carried on private services under competitively bid contracts; and, as a result of the impact of competition in the school bus industry, differences between public and private bus in the school bus industry are far less than they are in the public transit industry. Competition has kept even public costs under control.

A quick couple of examples. In Dallas, the local agency has contracted the entire express bus system to Trailways, at a savings of about 35 percent.

In Phoenix, they have canceled their Sunday bus service and replaced it with a taxi-oriented dial-a-ride system that is saving the taxpayers 90 percent.

In the city of Carson in the Los Angeles area, a very well received new local circulation system of seven lines is being operated by the union shop operator at 70 percent less than it could be provided by the regional transit operator.

In 1982, the Southern California Association of Governments issued a report that said that virtually all of the express lines in Los Angeles County could be operated without subsidy if turned over under contract to private providers. And, indeed, in at least 10 cities around this Nation, private providers are making money charging fares comparable to transit fares on long commuter express services, and making money, buying equipment and getting no subsidy. In all such cases, similar directly operated public transit services required heavy subsidies.

In the Santa Clara Valley, in Los Angeles County, the county contracts for an express service, which costs 57 percent less than public costs, and for the last 2 years, costs have gone down.

At the same time in Los Angeles County, transit costs have gone up more than double that of the inflation rates.

Organizational changes are occurring around the country as well to accommodate contracts. The Los Angeles County Transportation Commission has now established a program which will provide funding for communities which will take over regional services for the RTD and contract them where the savings are at least 25 percent.

New organizational models have arisen in San Diego, in Minneapolis, and in Dallas at this point wherein policy for transit is being separated from operation so as to put boards of directors and management and transit systems more in a position of looking for the facilitation of mobility in the urban area rather than looking out for the bureaucratic interests of operating a particular system.

In fact, the most spectacular example of new organizations is in London, which has the best transit system in the English-speaking world.

What has happened is that Parliament has gone forward and created a new organization, London Regional Transport, with a mandate which will require that fares not rise faster than inflation, that subsidies not increase, and that the service levels be maintained.

And to do that London Regional Transport has recently put out for bid some 13 buslines.

In conclusion, sustainability of service in the transit industry requires that costs be controlled, and competition is, in my view, the only way that costs will be controlled.

Now, competition is not a question of political philosophy or ideology. It is a question of pragmatism; it is a question of what works. Even the people from the Republic of China with its intense philosophical commitment of state monopoly, is embracing competition to improve public service.

Similarly, in public transit, it is time to discard the myths, however well intentioned, which have relegated transit to perpetual decline and crisis.

There is an alternative to continue decline, to continue superinflationary cost increases. There is an alternative to superinflationary cost increases, to service cuts and to new taxes; and that alternative is competitive contracting.

Under competitive contracting there are only winners. First, transit employees who will have improved job security by the improved financial condition of transfer organizations.

Second, the taxpayers who will not see their taxes increase and will see their taxes utilized more effectively.

Third, riders who will benefit from lower fares and higher service level. At this point, I think it is important for us to think about what is the appropriate public role of the Government in public transportation.

And I think the Citizens League, a well-respected, civic organization, in the Minneapolis-St. Paul region, has put it this way: "The

essential function of government is service. Government may itself later do what it has decided should be done, but equally it may not.

"Its basic intention is to see what should be done is in fact done." The Moody proposal is an important step forward toward improving public transportation in this country. It is time to keep faith with the intent of the 1964 legislation, with the interests of the taxpayers, and the with the interest of the riders.

Competitive contracting is a concept whose time has come.

Thank you very much.

Mr. ANDERSON. Well, thank you, Wendell, for an excellent presentation.

And, before I recognize Dr. Teal, I want to welcome another one of our members—Congressman Jim Bates.

We are very happy to have you here, and we will let you talk a little bit later.

And we will hold our questions, Wendell, until we hear from Dr. Teal.

At this time, we will hear from Dr. Roger Teal, an assistant professor of civil engineering, University of California at Irvine, specializing, I understand, in transportation.

Dr. Teal, we do have your prepared statement. It will all be made a matter of the record. So, you can present it as you wish, but hope you could extemporize to expedite it a little.

Mr. TEAL. I am a faculty member at the University of California/Irvine where I teach courses in transportation planning and analysis in the civil engineering program.

Since 1977, my major focus of research has been on the use of private sector for urban transportation services. During that time I have received five research grants from the Urban Mass Transportation Administration to study various aspects of the use of the private sector as a provider of subsidized and unsubsidized urban transportation services.

Most recently, in February, I received a grant for what I hope to be a definite study of transit service contracting. Wendell's remarks cover many of the positive arguments in favor of transit contracting and he stated them very eloquently, so I would like to restrict my remarks today to what some of our research findings indicate about the feasibility of contracting, its benefits, and how it might be more effectively utilized as a result of changes in Federal transit legislation.

In the course of our several studies at Irvine, we have learned a great deal about transit service contracting which bear directly on the issue of whether the Urban Mass Transportation Act should be amended to encourage more full use of the private sector.

First, I should state at the outset the research clearly indicates that direct public agency operation of public transportation is not the only natural means of providing transit. Service contracting by public agencies with private operators is an equally natural model for transit service delivery, and one which is widely used for small transit systems and for certain types of transit services.

When fiscal incentives are appropriate, service contracting becomes quite prevalent. That is, in my opinion, why H.R. 5165 is quite significant in taking the first steps to reverse what I believe is a longstanding policy bias toward direct public agency operation

of transit. When one examines situations where that policy bias is weakened, one finds rather dramatic reversals of nationwide patterns which show direct public agency operation to be by far the predominant means of transit service delivery.

The underlying question, of course, is why should we be encouraging service contracting at all. Quite simply, because contracting saves money and public transportation is in a very serious fiscal situation. Let me review the evidence which we have put together in the course of several studies which indicate cost and subsidy savings which are possible with service contracting. In my prepared remarks, I have provided evidence showing that service contracting can save from 10 to 60 percent of service costs for comparable public transportation services for fixed-route transit, which is, by the way, the least common use of contracting today. When one looks at demand-responsive transit services, the cost savings tend to range from about 40 to 50 percent.

But let us take a look first at the evidence with respect to fixed route transit, because there has been, I would say, a myth perpetuated that only public agencies, large public agencies, if you will, are able to provide high quality, fixed-route transit service and therefore this is an area that we should not be contracting out to the private sector.

Let us take two or three examples where we have, I would contend, ironclad evidence of the large subsidy savings. For example, Yolo County, CA; in Yolo County, Sacramento Regional Transit provided transit service for the county in fiscal year 1981-82. The cost to the county was about \$1.45 million. In 1982-83, Yolo County chose instead to contract with a private operator for services. With the same service package almost to the last mile, the cost, including the county administrative cost, dropped to \$835,000. That is a saving of 42 percent for precisely the same service package. There is no apples and oranges here. This is the same thing we are talking about.

Similarly, in Carson, CA, we had a situation of competitive bidding for a new transit service that Wendell mentioned. The private operator won the contract and came in with a bid which was 53 percent less than the lowest cost public agency which bid on the service. This is not the large regional operator; this was a relatively small municipal agency in Congressman Anderson's district. This is a 53-percent cost savings in this, again, situation of apples and apples.

I provided some information on a subscription express service that is provided by Golden Gate Transit in the bay area. That service is privately contracted. If Golden Gate Transit were to take over that service, the cost would go up by 33 percent, approximately, and the subsidy would go up by 93 percent. Again, we are talking about apples and apples, not apples and oranges.

Throughout the country we have these examples of where large cost savings are possible simply by substituting a private operator for a public agency. Right here in San Diego County we have an excellent example. San Diego Transit Corp. provides service within the city of San Diego and many of the outlying suburbs. And for fiscal year 1983 the cost of that service was about \$54 a vehicle hour. At the same time the county of San Diego contracted to pri-

vate operators for local service throughout the unincorporated areas in the county and for some express service into downtown San Diego. That express service, by the way, is very expensive compared to all day service. The costs of these services are \$37 a vehicle service hour, for a cost savings of more than 30 percent.

So throughout the Nation then we have excellent examples of what cost savings are possible in contracting with the private sector. What accounts for these large cost savings? One factor, frankly, is lower wages, which are paid to the employees of private transportation companies. These companies pay market wages; they do not pay wages which are negotiated in the public sector. They pay what they need to obtain quality bus drivers and to obtain quality maintenance personnel.

Second, and very important, much less restrictive work rules. In the public transit agency, work rules are quite restrictive, there is no cross-utilization of employees. In the private sector there is tremendous cross-utilization of employees. So, therefore, you need fewer employees.

Third, private operators usually have much lower overhead expenses that they have to charge to the public transit system, because, first, they operate leaner organizations; and second, they are able to spread their administrative expenses over both public and private operations.

Well, if transit service contracting saves so much money, the obvious question is, Why is it not more prevalent? Well, in one sense it is prevalent. If you look at the data from California, and you count up the number of separate services where contracting is employed—by separate services I mean if you have a dial-a-ride service here and a regional fixed-route system over there, it is counted as two separate services—if we do that exercise, we find that in California, about 55 percent of the transit systems in the State are provided by private operators under contract.

If we look at the national level, we find that about 30 percent of all such systems are provided under contract. Further, if we disaggregate the national data, we find that in excess of 10 percent of fixed-route systems are provided under contract, and 50 percent of all demand-responsive systems are provided in their entirety under contract, and another 15 percent are provided partially under contract.

Sounds like big numbers. Well, you have to look a little more deeply. When we look at the expenditures on transit, and we distinguish between direct public agency operation and contracting, a completely different picture emerges. In California, where we have 55 percent of all transit services provided by the private sector, less than 4 percent of transit operating expenditures are spent on those services.

At the national level, where we said that, about 30 percent of separate systems are provided by private operators, we find about 2½ percent of expenditures are for contracted services. And for fixed-route services, only about 1½ percent. So the numbers look real good at first, but then we start looking more deeply, and the numbers look quite different.

What does it mean? It simply means that public transit agencies have basically restricted the use of contracting to very small-scale

services and small scale applications. And the bulk of the transit service delivery is direct public sector operation. Now, there are some notable exceptions to this pattern which illustrate that it does not have to be this way.

For example, as Wendell mentioned, in Dallas and Houston, we have very large privately contracted express bus service, 113 buses in Houston, 60 buses in Dallas, and Dallas has plans to expand. In Orange County in Southern California, the Orange County Transit District has the largest dial-a-ride service in the entire country, 130 vehicles devoted exclusively to dial-a-ride service, all contracted to the private sector.

Also in California, in San Diego County and Los Angeles County, every bit of transit service provided by those counties is contracted to the private sector. And, of course, we have the crowning jewel, if you will, of private sector contracting, Westchester County, NY, an entire fixed-route system involving 321 buses and over \$30 million in total expenditures.

Well, the next question, obviously, is, Why isn't it happening? An obvious answer is transit labor. Labor fears not only loss of individual member's jobs, but also loss of union positions. There is also skepticism if not outright opposition from transit management, which has a model in its mind as to how transit services should be provided, and that model is direct public agency operation, because it politically benefits a transit agency to provide service in that particular fashion.

Equally significant, however, is that there is often very little incentive available to policymakers to alter this kind of direct public agency provision of service. And I would like to conclude by talking about that.

If we look at areas where transit contracting is prevalent, one finds a simple fact. And that fact is that transit subsidies have alternative uses. In California, outside the 10 largest urban counties, transit subsidies can also be used for highways. In those 48 counties you are hard pressed to find direct public operation of a transit system, because the funds have alternative uses. So there is a tremendous incentive for cost effectiveness.

If you look at Phoenix Transit, Tidewater Transit, Westchester Transit, Suffolk Transit in New York, the same thing is observed. Local funds that are used to subsidize transit are not dedicated to transit. They can be used for other purposes, and so the public officials have strong incentives for cost effectiveness. This clearly suggests policy directions for changes in the UMT Act. The policy directions, of course, are more flexible use of funds.

H.R. 5165 is a first step in that direction, since capital funds could be used more flexibly to purchase services. Obviously, one can go much, much further with the UMT Act in encouraging these sorts of things.

Our research at UCI, therefore, reveals that contracting is business as usual in many communities. What is needed to make it business as usual on a much more substantial scale is a change of fiscal incentive structure affecting transit service delivery. H.R. 5165, in my view, is a first step in this direction. Any policy which facilitates service contracting will very clearly create net benefits to people in this society who rely on transit for their mobility,

while the alternatives—service cutbacks, fare increases—obviously would have a detrimental impact on the mobility of transit-dependent riders.

Therefore, it seems to me that H.R. 5165 and similar types of policy incentives are a very, very important mechanism for keeping mobility levels assured in this time of transit fiscal crisis.

Thank you.

Mr. ANDERSON. Well, thank you, Dr. Teal.

I have several questions that I want to ask, but I will ask just three of them now, then listen to the others, and then come back and finish mine if they have not been asked.

My first ones are for Wendell Cox. Wendell, you were, of course, until recently a valued member of the Los Angeles County Transportation Commission. In that capacity you have been for some time a leading spokesman for private sector participation in transit. You have now left the commission, and as I understand it, are doing consulting work.

While your deep interest in today's subject matter is well known and long standing, I do feel that I must ask for the record whether any of your present or proposed clients have an interest in this issue.

Mr. Cox. Oh, indeed. In fact, all of them do. The American Bus Association is one of my clients, and they certainly have such an interest. And I am also involved in a project in the Detroit area for Oakland County, that also has a similar interest there.

Mr. ANDERSON. Wendell, you say that transit monopolies, whether private or public, tend to maximize revenues and impose products on markets with insufficient regard for the needs of the market. Now do these two alleged inevitabilities not conflict? How can revenues be maximized unless the service being offered is one that the people want?

Mr. Cox. Mr. Anderson, they can be maximized by the fact that—an example. First of all, transit in the suburbs has generally tended to impose the same kinds of systems in the suburbs that are provided in the central city, almost without regard for the much different needs of suburban communities. And as a result, for instance, in areas like where I live in the San Fernando Valley, where patronage is very low, we have very large bus systems which operate infrequently, where people end up standing out on corners for an hour waiting for transfers between services.

So, on one hand, that kind of placement of what is the existing system into a new market has occurred chiefly around the country in the suburbs.

Second, the revenue maximization is shown by the fact that the transit industry has largely attacked its problems with only revenue strategies. Transit is continually asking for more money at the local, State, and Federal levels, as is characteristic of a monopoly. The public is routinely presented with a bill inflated by transit's natural inclination to not control costs and not consider alternatives. That simply happens that way. And I do not see that as being inconsistent at all.

Mr. ANDERSON. Well, if the local decisionmakers elect to contract out for service, why will they be more likely to contract out for service that people want than if the public entity provides it itself?

Mr. Cox. Well, what is anyhow happening more so is that more and more as transit agencies are coming under pressure, local general public officials are beginning to take over policy. This is what is happening in Los Angeles County right now. What happens when you begin to open the market to private providers that must make it in the competitive market is the ideas of those providers start coming into the public sector, they start talking to the planning departments within transit agencies, and general-purpose government.

For example, one—with Dr. Teal indicated where he said that where transit subsidies have alternative uses they tend to be used in contracting situations. There is one place where that does not hold, and that is Los Angeles County, where our new proposition A local return program, there is no alternative use for that.

However, the people who decide how that money is spent are city council people and county supervisors who do not have a direct interest in having a large operating bureaucracy. And as a result, what is happening is those people are saying, we want to get the most for our money, and therefore they are going with contracting services. Under contracting the public role is identical with its traditional role. All planning is under the public agency. Indeed, freed from the bias toward direct operation of conventional services, I would expect services to be better matched to public route.

Mr. ANDERSON. Well, there is obviously some political appeal to contract out to the private sector. Are you concerned that local political pressures might be so great that they would be forced to do it even if it were unwise purely from a transportation standpoint?

Mr. Cox. Oh, not at all, because the competitive market is so large. There are literally scores of bus and taxi firms in the largest of our metropolitan areas, and there are many in the smaller metropolitan areas. They do not tend to be large companies with great political influence; and beyond that, as long as you require, as I believe the Moody proposal does, that this be on a competitive bidding basis, the maintenance of the competition through competitive bidding is going to, I think, assert the kind of influence that will keep it in the public interest.

The other point, of course, is that the public agency always has the ability to directly provide the service themselves if they so choose.

Mr. ANDERSON. Now, you cite impressive-sounding anecdotes to try and prove your points, but when researchers look beyond these same anecdotes they do not always agree with you. Are you familiar, for example, with the New Jersey case history that has exposed extreme displeasure with private subsidized contractors. In its 1979 study, New Jersey Transit found the cost of operating private systems was at least as high and increased as fast or faster than the increase in publicly owned systems.

Are you familiar with this, and does this not contradict your assertion that private providers produce identical services for 35 to 70 percent less cost than public operators?

Mr. Cox. I am not familiar with that particular study. However, I am very familiar with the case. New Jersey Transit, the public operator, was not established till 1980. So those comparisons would have shown Transport New Jersey which was a subsidiary of the

local public utility company located in Newark, and frankly, public service transit from 1965 to 1980, I am familiar with their approximate figures. They kept their cost increases in line, but they are an old private transit company, not a public transit company.

New Jersey Transit took over in 1980. Beyond that, New Jersey Transit, which initially upon its beginning, when Jerry Premo left our commission and became executive director of New Jersey Transit, it was their intention, following the model of many other transit agencies in the United States, to take over all of the private operations. They have since begun contracting service on a competitive bidding basis in increased amounts, because they also have realized that there are great advantages to this.

The New Jersey situation in 1980 did not involve competitive bidding, rather the private providers held franchises. Even if, therefore, this were a valid public-private comparison, it would not refute the 35- to 70-percent savings experiment.

Mr. ANDERSON. As I said earlier, I have several other questions. My next ones are for Mr. Cox and Dr. Teal, but I think I will yield at this time to my colleagues and let them get into this game.

Mr. Moody.

Mr. MOODY. Thank you, Mr. Chairman.

Because we have a lot of witnesses and not a lot of time, I think that I would prefer to ask my questions to the witnesses at another time. I can always get information from them. So I will yield my time back to the committee.

Mr. ANDERSON. All right.

Mr. Lowery.

Mr. LOWERY. I will likewise yield my time to the committee.

Mr. ANDERSON. Mr. Bates.

Mr. BATES. I just have a quick question of Dr. Teal regarding the—as I understand, the current law, section 9, involves 35 percent available for operating assistance for contracting; is that right?

Mr. SCHLESINGER. Yes; I think under the present section 9 program, that of the total national cap, about 35 percent can be used for operating assistance, and so under present law could be used to contract out.

Mr. BATES. All right. I thought you said only about 2.6 percent were currently being contracted out.

Mr. TEAL. That is in terms of expenditures on the operating side of section 9. So of that, of 100 percent of section 9, let us just talk now of 35 percent. Of that 35 percent, about 2½ percent—

Mr. BATES. Right.

Mr. TEAL [continuing]. Is actually contract percentage.

Mr. BATES. All right. I guess my question is what changes in law would increase that, or why we have not seen a great increase in amount that could be available now for contracting out.

Mr. TEAL. OK. There is really two separate questions there. I would like to address the second one first. Why have we not seen more of it occur? I think basically it is because most of our public transit agencies are public monopoly minded. With that model in their mind, they believe that it is necessary and proper for them to provide all of what I would call their mainline services themselves, in a sense irrespective of the cost. Because always when fiscal crisis

after fiscal crisis occurs, some level of government tends to ante up, or you raise fares or you reduce service. Mobility of your riders tends not to be the paramount concern in these cases.

So obviously you have to attack that monopoly model. H.R. 5165 will produce more flexibility in funds, at least require local decisionmakers to think about what they do; whether that will be sufficient I am not real certain. But at least making them think about it is a first step. I would personally like to see some stronger steps in the law.

For example, people at UMTA have said maybe we should set aside 5, or 10, or 20 percent for the operating part of section 9 to be used in some certain incentive way to promote contracting. Things of that nature really get people's attention. You have to do something to get their attention.

Mr. BATES. Just as an aside, if this works, we might want to extend it to other parts of governmental work.

Thank you, Mr. Chairman.

Mr. ANDERSON. Susan, do you have any question?

Ms. FRY. Just one thing. Mr. Cox talked about the revenue maximization and not providing the best type of service. How do you answer the contention we have heard that the public sector operator is more responsive to public needs, whereas the private sector is going to be motivated by the maximization of profits—

Mr. Cox. Well—

Ms. FRY [continuing]. And this is something we heard up in New York—that in an area such as Nassau County with a dispersed population that is not as cost effective to operate as an area where there are major business centers, there might be chunks of the population that are left without transit service, often those that need it the most.

Mr. Cox. That is an easy one to answer.

First of all, with respect to revenue maximization, when we talk of revenue maximization, we are not talking about fares only. We are talking about all revenues, taxes, fares, et cetera. So when we talk about transit and revenue maximization, we point out the fact that transit has an insatiable appetite for new public revenues. You give them a new tax, they will need another new tax within a couple of years. It is how it works.

With respect, however, to the concern that if you go with private operation, there will be—the profit motive will force costs higher, the record simply does not show that to be the case. The fact is that transit costs have risen far faster under the public monopoly than they did under the private monopoly.

Under what we are proposing, what happens is the transit district goes out and says, what is my bid for line 100. And it gets bid. And if it does not like those bids, including the private provider's profit, it does not have to take them. If it finds it can provide the service less expensively, it should. It will not find that to be the case.

Last, with respect to your point about the concern that some areas might not be served because of the fact that perhaps some areas will not be profitable to serve, that is the precisely the point we are trying to counter. Under contracting, the public agency retains the franchise for all the service and guarantees all the serv-

ice, and the public agency therefore decides what service shall be provided and what service shall not. By utilizing a private contractor in a very bad service, let us say a really poorly patronized service, what that public operator does is reduce his cost of the subsidies which the public must pick up.

And, last, with respect to Nassau specifically, Nassau County is an example that many in the New York State Department of Transportation love to point to, because Nassau County is directly publicly operated, and its system was set up about the same time that the Suffolk County service was set up as well. Suffolk is even more sparsely populated. And Suffolk is operated on less than half of the unit funds of Nassau.

Mr. MOODY. Will Ms. Fry yield on that point?

Ms. FRY. Certainly.

Mr. MOODY. I guess what I would like to hear you respond to is, is it true that with the contractor that the public authority still dictates the envelope of policy, that is, they dictate who is going to be covered or not covered? If there is a loss on the route, then they still may try and pick it up, but they may minimize the subsidy rather than maximize revenues, subject to solvency constrictions.

But the public entity still retains that envelope of policy as to what would be covered or what fares can or cannot be charged, and so forth. If the company does not want to bid, they get no bids, but at least they retain those policy parameters.

Is that another part of the answer to what she asked?

Mr. COX. Yes; that is precisely the point.

You see, what happens, profit maximization sounds fine, but if you are in a competitive market, profit maximization means that you must be forever wary and aware of what your competition is doing. You cannot just go raising your prices out there and expect to make a profit, because if you permit—if a private contractor, for instance, this year wins a contract and he permits his costs to get out of line and he comes back the next year with a bid that is twice that or very significantly higher, then his competition, he is going to lose it. That is precisely what is wrong with monopoly, that there is no moderating influence on monopoly profit, as it were.

And in the public sector, that means there is no moderating influence on maximization of revenues except the availability of public revenues.

Mr. MOODY. There are no penalties on the increase of government extension—

Mr. COX. No.

Mr. MOODY. Thank you.

Mr. TEAL. I would also like to pick up on that particular point. I think we have some really powerful data from California which indicates, which illustrates very well what Wendell was saying. I have looked at six dial-a-ride systems in the State which have been privately contracted ever since their inception. I would say that none of these systems are really serious candidates for changing their private contractor. Even though they are competitively bid, the city wishes to retain the current contractor if at all possible.

Their costs have risen only two-thirds of the inflation rate over anywhere from a 5 to 9-year period, as compared to, as Wendell was pointing out, transit costs rising at 60 percent above the infla-

tion rate. So that, I think, illustrates the power of competitive contracting, even in cases where there is not a lot of contractors coming out of the woodwork.

Mr. ANDERSON. I might say here that one of the pleasures of doing a hearing like this is that we are really exploring and learning about something new, so our questions are not necessarily meant to be critical, because we do not necessarily have a preconceived point of view or any particular axe to grind. They are meant only to encourage discussion, clarify testimony, and bring out additional points.

Now, Dr. Teal, you referred a moment ago to Westchester County as the crown jewel of contracting out. If that is true, let me suggest there may be trouble in the throne room; that contracting in Westchester is not let by competitive bidding, and, indeed, the contractor has expressed great concern over getting involved with competitive bidding.

You want to comment on that?

Mr. TEAL. Certainly.

By referring to crown jewel, I was simply referring to the fact that Westchester illustrates beyond the shadow of a doubt the feasibility of contracting out an entire large transit system to a private operator. It disproves the point that public transit operators harp on again and again and again, that you simply cannot do this, you can only contract out small services, small increments of service. And Westchester County is just blatant evidence that that simply is not the case.

Mr. ANDERSON. Well, let me contribute a little more on this, and, of course, my comments now are directed to both of you, so, Wendell, you can get into this.

In the Nassau County and Westchester County comparisons that are often made, I am told that we might as well compare apples and oranges. In Westchester where the private sector contracts to provide bus service, there are three urban centers.

In Nassau County, where it is provided publicly, there are no urban centers. Would you not agree that this makes useful cost comparisons impossible?

Mr. Cox. Congressman Anderson, the comparisons are not between Westchester and Nassau. The comparisons are routinely made between Suffolk and Nassau, and Suffolk is even more rural than Nassau. Actually, Nassau is almost fully suburban; Suffolk is about half suburban and half rural at this point.

I do not know of anyone that has made any real close comparison of Westchester and Nassau; however, Westchester's costs are lower than Nassau.

Mr. ANDERSON. Now, I am also told that there are transit-related expenses that get lost in the Westchester County budget. Would this not tend to make comparisons moot; if they are in their budget, how can you—

Mr. Cox. Indeed, when one does a very close analysis of costs, there are two issues to remember. First of all, when a transit agency goes and contracts with a private provider, they still have overhead costs. They have still got to pay for their building, they have got a personnel department to fund, et cetera. Those costs

tend to run somewhere in the neighborhood of 10 to 11 percent of better run transportation systems.

At the same time, however, when they go on contract, more often than not, the private provider provides the vehicle within the purview of that contract without any additional public assistance. The cost of that vehicle ends up costing somewhere between 15 and 20 percent of the private provider's cost. For instance, in the Los Angeles case, when the Southern California Association of Governments looked at contracting for a commuter express network, it was found that the private costs were 50 percent less than public costs, and that was with the private operators buying vehicles.

When we deal in the public transit area, we are dealing with the situation where the public transit vehicle is a free gift from Washington, you know, where they are faced with rather substantial budget deficits at this point.

Mr. ANDERSON. Now, from a budgetary perspective, outlays on budget authority are much, much faster on operating than on capital. Outlays on operating are nearly all in the same year that the budget authority is available; whereas outlays on capital budget authority are spread over several years. So to the extent that H.R. 5165 were utilized, would it not create an even greater downward pressure on Federal transit spending?

Mr. TEAL. Well, I can—let me just respond to that in a slightly different fashion.

Mr. ANDERSON. What we are trying to do is kind of get your ideas.

Mr. TEAL. I have not thought about it, either. I guess I would like to respond in a somewhat different fashion. My personal view is that H.R. 5165 is a step in the correct direction. I do not personally believe that the different allocations that H.R. 5165 would put in place are going to have any sort of significant and dramatic impact on service contracting levels for precisely the reason that the contracting authority would be spread out over, I guess, 12 years, which is the standard life of a bus.

So we are not talking about making very much money available in any one year. But nonetheless I think the principle is what is important. The details, I think, still can be worked out to create a far greater percentage of contracting.

Mr. MOODY. Will the chairman yield?

Mr. ANDERSON. Sure.

Mr. MOODY. The reason we did that, that we wrote the bill that way, is that we did not want to—you know, a bus is a capital equivalency concept, I mentioned in my opening comments—but we did not want them to take the amount of money that is supposed to last us 12 years and grab it all at once in 1 year, and then come back the next year as though that did not happen.

So it is true that it will spread the payment out. Once you reach the 12-year point, then you feed back to sort of equilibrium level, and the payoff rate would be constant.

I might add that in the interim it will help the debts a little bit to slow the payoff. So you would be back, assuming you rolled those things over, you would be back to equilibrium.

Mr. ANDERSON. I will pass your word along to the President.

This next question, I would like to direct to the both of you.

We all know that great advances are being made in contracting for private sector services. Now given the fact, according to UMTA, that less than 10 percent of the cost of operating a transit system comes from Federal operating assistance, with 90 percent coming from the farebox and State or local subsidies, why would it be wrong to assume that transit properties currently have sufficient funds to do all the contracting out they might desire. They do not need the section 9 capital-only money to contract out. They clearly have funds available from other sources.

So what impediments are there to contracting out that H.R. 5165 would address?

Mr. Cox. Well, H.R. 5165 just creates greater incentives to contract. Clearly, given the record last year when—in the last 2 years when transit has sought a continuation of the three-for-two capital for operating trade, there is an interest independent. There is a business in obtaining additional operating revenues.

And similarly, H.R. 5165 provides that kind of revenue by creating operating revenues out of the capital budget. And I think that anyone that looks at the record of the last 15 years will find no year that transit has not sought additional revenues.

Mr. ANDERSON. I realize the bill has not been introduced yet, but we are talking about last year's bill. Do any of you know of a provision of this bill that would prevent a public property from electing not to use any of its section 9 for operating assistance, since that pays for less than 10 percent of its cost anyway, and since that would be just a 50-50 match, and instead use it all on capital and contracts, some of that out to get the 80-20 match. Would that be prevented under this bill?

Mr. TEAL. I am not familiar with that.

Mr. MOODY. Mr. Chairman, I don't—would you just—I didn't follow the question.

Mr. ANDERSON. Well, the case is juggling, I guess.

The question is, Do you know of a provision in this bill that would prevent a public property from electing not to use any of its section 9 for operating assistance, since that's used to pay for less than 10 percent of its costs anyway, and since that would be just a 50-50 match. Instead use it all on capital and contract some of that out to get the 80-20 match. You could get 80-20 on capital when you get 50-50 on the operating? Would that be prevented in this bill?

Mr. MOODY. Well, they would be throwing away 50 cent dollars in a way, if they did that.

Mr. ANDERSON. But they are getting 80 cent dollars.

Mr. MOODY. They have x amount of available capital of 80 cents, 20 cent dollars. They are the 20 cent dollars. They should get x amount. And they should get y amount of 50 cent dollars. That does not mean use only the use of capital side and throw away the other and switch around. I suppose they could. But they would be throwing away 50 cent dollars.

Mr. Cox. Well, only that, Mr. Chairman, from my experience on the Los Angeles County Transportation Commission, I happened to get involved in transit matters nationally for some time. I know of very few cases where transit authorities have ever turned back any operating money. It just does not happen.

Mr. SCHLESINGER. They are not turning the money back. They are electing not to use it under the operating cap of the section 9 program. They are electing to convert that rather to their capital needs. I mean, after all many cities right now could use 100 percent of their section 9 for capital. If they do that, they——

Mr. MOODY. So, it wouldn't be thrown away.

Mr. SCHLESINGER. They are not throwing it away.

Mr. MOODY. They want the full amount of it all in capital now. I am going to use as much as I can on the operating. There should be a minimal restriction to prevent that sort of thing.

Mr. ANDERSON. Let me take you just one step farther. UMTA tells us that properties provide \$9 for every one in operating they get from the Federal Government. Now, that is quite an overmatch, \$9 to \$1. Would they not feel pressured to use some of this overmatch to utilize H.R. 5165 and contract out for in effect, more operating assistance and so subvert their capital program?

Mr. MOODY. Well, they have capital used in that operating, in this suburban capital program. We are assuming intelligent men. But within the intended structure I think they are probably operating healthily.

Mr. ANDERSON. Maybe these are some points you can think of when you are redrafting this bill.

Are there any further comments to Dr. Teal on this one? Well, thank you very much, Wendell Cox and Dr. Teal, for an excellent presentation. I wish we had more time.

[The prepared statements of Mr. Cox and Dr. Teal follows:]

STATEMENT BY

WENDELL COX

Transit begins 1985 with the prospect of reductions in Federal assistance. Yet the difference between 1985 and almost any other year is only a matter of degree. Whatever the fate of Federal assistance, transit will continue to be in financial crisis, just as it has been in the past. Fundamentally, this is attributable to super-inflationary cost increases, rather than insufficient public revenues. Rapidly rising costs have destabilized service and fare levels, resulting in continuing decline. The health of both urban mobility and transit requires that expenses be brought under control.

One particularly promising alternative incorporates competition through private contracting. From inauspicious beginnings in the late 1970's and early 1980's, contracting has become a nationwide phenomenon, as a strategy to reduce and control costs. This has benefitted both riders and taxpayers virtually everywhere that it has been implemented. The Moody proposal, by increasing public transit options for competitive contracting, promises to accentuate the trend toward cost control and public service.

TRANSIT AND SUSTAINABILITY

Super-inflationary cost increases have been routine since the establishment of operating subsidies. From 1976 to 1982, the largest public bus operators experienced unit cost increases 61 percent above the inflation rate.

These cost increases have frequently been blamed on rapidly increasing driver salaries and benefits. The record, however, suggests a somewhat different conclusion. From 1975 to 1982, driver wages and benefits among the largest public bus operators actually declined by 13 percent relative to total costs. Certainly, driver wages and benefits have risen faster than inflation, but other costs have risen even faster. Across the board, transit costs are out of control.

Excessive cost increases account for a sizeable figure. In Los Angeles, if transit costs had been contained within inflationary bounds from 1976, operating costs in 1984 alone would have been \$110 million less, a reduction of nearly 25 percent. The aggregate excess over inflation is enough to build the Long Beach Light Rail line. The figures are proportionally similar in other cities. These excessive cost increases have been financed by transit's customers, the riders and taxpayers. Service levels have declined, fare levels have increased faster than inflation and needed capital improvements have been delayed or cancelled.

In short, transit service is not sustainable under the present set of circumstances, nor will it be without substantial changes. Fares must continue to rise faster than inflation, driving passengers away. Services must continue to be curtailed, alienating communities

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and abandoning riders. More public revenues must be sought. Once obtained, still additional public revenue sources will be required, because public revenue sources rise at best with inflation, while transit costs rise above inflation. Stable public revenue sources are not enough as long as costs are not stable. Until costs are controlled, the decline of transit will continue.

Uncontrolled costs cannot be traced to management. They are structural and, as a result, transit is unmanageable. The root of the problem is the absence of competition. The British Government White Paper on Buses put it this way:

But it is too easy at present for local authorities to claim that the only alternative to high subsidies is massive fare increases and service cuts. There is another way to improve efficiency and reduce costs. The present licensing and subsidy arrangements, without the spur of competition, protect the operators rather than their customers. That balance must be changed.

Transit service has historically been provided under monopoly mechanisms. This is true under public ownership and operation, just as it was under private ownership and operation. Monopolies tend to maximize revenues, and to impose products on markets, with insufficient regard for the needs of the market. Certainly, this has been characteristic of public transit.

CONTRACTING FOR PUBLIC TRANSPORTATION SERVICE

The antidote to monopoly is competition. Competition can be invoked as a management tool, through service contracting. The Moody proposal makes that tool more readily available.

Private providers produce identical service for 35 to 70 percent less cost than public operators. Further, competition forces private providers to keep annual cost increases within inflationary bounds. Through competition, transit operators can obtain more cost effective service, while retaining full policy control of both directly operated and contracted services.

The transit agency decides which services to contract, and awards contracts through competitive bidding. It specifies fares, service levels, service standards and coordinates schedules and transfers. To preserve the positions of transit employees, implementation can be phased within the limits of the turnover rate. The franchise is retained by the transit agency, and at contract expiration a new provider can be selected, or direct operation can be reassumed.

Two general categories of arguments have been raised against contracting. These can be characterized as arguments against a straw man and arguments based upon institutional turf at the expense of the public interest.

ARGUMENTS AGAINST A STRAW MAN: The first category of arguments is directed against the private monopolies which preceded the public takeover. Private monopoly is a phantom which has not been proposed for resurrection.

It is argued that private providers will select only the best routes, and that major portions of the service area will be abandoned. It is further suggested that services and fares will be uncoordinated and confusing to the public.

These arguments fail to recognize that, under contracting, service and fare decisions are made by the public transit agency, and not the private providers. The public agency, not the private providers, decides which services should be contracted. The public agency, not the private providers, establishes fares and schedules, the elements of coordination. Public service is not abandoned to the uncertainty of the market, rather public service is guaranteed by the public transit agency, just as it is. An important difference, however, is that the resulting lower costs and more moderate cost increases permit more transit service and lower fares.

Arguing against a straw man is at best diversionary and at worst disingenuous.

ARGUMENTS BASED UPON INSTITUTIONAL TURF: The other category of arguments is rooted in the preservation and extension of the influence of the transit agency to the detriment of riders and taxpayers. Concerns are expressed that contracting for some services represents abdication of the agency's public policy role or that the public agency may eventually serve only the central city with direct services.

The public interest is served by higher service levels and lower fares. To the extent that transit disregards alternatives to provide higher service levels and lower fares, it runs afoul of the public interest. Urban areas are changing, mobility needs are changing and transit is changing. The purpose of transit is not to directly operate service; it is to move people to the maximum extent possible with available resources.

Turf arguments do not reflect well on transit, and are, by definition, incompatible with the public interest.

Indeed, with the substantial cost advantages of contracting, it is bewildering that there is any argument at all. Forward thinking transit authorities are putting pride aside and incorporating competition to better fulfill their public mandate.

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Contracting is not new, nor is it an aberration. Transit agencies have contracted for specialized services for years. Further, contracting in the school bus industry is a model for the transit industry. A substantial percentage of the school trips in the United States are provided by private operators, more riders than are carried by transit. Contracts are awarded on a competitive basis. The competition between private providers impacts even public providers, as the difference between public and private costs is less than in transit. Despite the disadvantages of exclusive peak operation, both public and private school transportation costs have been kept well below those of transit.

The record demonstrates that contracted public transit service brings lower costs and controlled cost increases. It will only be by lowering and controlling costs that transit service will become sustainable.

COMPETITION AND SUSTAINABILITY

Competition can make public transit service sustainable. There is an increasing array of examples of cost reduction, improved market orientation and cost containment.

In Phoenix, a market oriented demand responsive service replaced Sunday conventional transit service. The savings exceed 80 percent.

In San Diego, demand responsive service is provided to communities in which low patronage levels could not otherwise justify service. Suburban fixed route services are also provided under contract, and unit costs have not only been contained, but have even been reduced from year to year. These privately contracted services have been credited with downwardly impacting the costs of even directly operated public transit service.

Services in Los Angeles County further illustrate the advantage of contracting:

In Carson, a small bus local circulation system operates on the customer oriented "timed transfer" design. Costs are 70 percent below direct public operating costs. And, these costs are achieved with a union shop.

A 1981 study by the Southern California Association of Governments demonstrated that public express services in Los Angeles County could be contracted to existing private transit providers, while eliminating the need for public subsidies, both for capital and operating costs. This is particularly notable, since public operating costs do not include capital expenditures.

The Santa Clarita Valley express service has been contracted by Los Angeles County to private providers for five years, at a savings of more than 50 percent. For the past two years, unit costs have declined, while local public transit costs have increased at super-inflationary rates.

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Other areas are or soon will be engaged in studies to increase private service delivery. These include Pennsylvania, New Jersey, Georgia, Maryland, Virginia, Detroit, Des Moines, Wichita and Los Angeles. In Chicago, even in advance of the new U.M.T.A. policy, private providers became formal participants in the regional planning process.

The most significant developments, however, have been organizational. Competition has been institutionalized in the following areas:

In London, with the best transit system in the English speaking world, a new policy-only body was created, London Regional Transport. The new organization will incrementally put services out to competitive bid.

In the Twin Cities, the new policy-only Regional Transport Board will contract all service in the region, with central city service being provided by the former regional transit operator and other services being put out to competitive bid.

In San Diego, the public system has become a subsidiary of the policy-only Metropolitan Transit Development Board (MTDB). MTDB will oversee the development of a regional trunk system, part of which may be contracted. This action institutionalizes the contracted local systems which have arisen in recent years.

The Los Angeles County Transportation Commission established a program and funding to encourage cities to replace directly provided transit service with contracted service, where savings of at least 25 percent can be demonstrated.

These cases signal the emergence of a new transit service delivery approach, the Competitive Model, the policy body:

Contracts all service, with central city service contracted to public operators and other services competitively bid.

Sets fares.

Establishes route alignments and service frequencies

Establishes service standards

Coordinates routes and transfers

Performs marketing and service planning

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The Competitive Model is an important philosophical departure in that the object of policy shifts from operations to customer service. This new focus better addresses the public role. In its publication "Enlarging Our Capacity to Adapt," the Citizens League of the Twin Cities puts it this way:

The essential function of government is deciding. Government may later, itself, do what it has decided should be done. But equally, it may not. Its base intention is simply to see that what should be done is in fact done.

COMPETITION, COST CONTROL AND PUBLIC SERVICE

Transit service will be sustained only if costs are brought under control. Contracting for public transportation will not only bring costs under control, but will also result in lower costs. Contracting is effective not because private providers are better managed, but because they operate in a competitive environment. It is essential that competition be incorporated into transit.

Around the world, the value of competition is being more widely recognized. Competitive contracting is increasingly occurring not only in the United States, but also in nations such as the United Kingdom, Canada, and the Federal Republic of Germany.

Competition is not a question of political philosophy or of ideology. It is a question of pragmatism, of what best serves the people. Even the Peoples Republic of China has recognized the inherent value of competition. That nation, with an intense commitment to state monopoly, came to the realization that having things work is more important than ideological purity. Competition is being incorporated into the system of that nation to improve public service.

Similarly, in transit, it is time to discard the myths, however well intentioned, which have relegated transit and urban mobility to perpetual crisis and decline. Transit will either change or it will be changed. Where transit embraces competition and controls costs, the public interest and institutional interests will converge, to the benefit of all.

The Moody proposal, by increasing public transit options to utilize competition, is in the best interests of transit's customers, the riders and taxpayers.

WRITTEN STATEMENT OF DR. ROGER F. TEAL

Assistant Professor of Civil Engineering
University of California, Irvine

Public transportation in this country is usually provided in one of two ways. In one model, a public agency owns and directly operates the transit system. In the other model, a private transportation company operates the transit service under contract to a public agency which establishes the basic service parameters and secures funding for the system. Since the mid-1960's, the basic assumption of most transit officials has been that the first model, that of direct public sector operation of transit, is the "natural" means of organizing and delivering transit services. The research that my colleagues and I have been conducting at the University of California at Irvine since 1978 has led me to a different conclusion, namely that private sector contracting is an equally natural mechanism for delivering transit services. The fact that the vast bulk of public transportation in this country is supplied by public agencies is no more a function of the "naturalness" of this service delivery model than it is a reflection of public policies which have systematically promoted this model at the expense of the private contracting model.

There is substantial evidence to support this contention. The best evidence is found by examining how transit is provided when local transit services have been established under

different fiscal incentive systems and different policy guidelines than those which prevailed under the UMTA program from 1964 until the advent of the Reagan Administration. In those situations, and I will describe several examples shortly, service contracting with the private sector has become an extremely important means of delivering transit services. In other words, service contracting is not an atypical mode of transit service delivery, but a well-established mechanism for such purposes. The problem, however, is that the large majority of medium to large transit agencies do not currently have sufficient incentive to utilize service contracting in any significant way. The amendment proposed by Congressman Moody would be a first step towards promoting a more even-handed evaluation of service contracting when transit agencies are considering how to deliver particular types of services.

Why should we care whether public agencies operate all transit services themselves or contract some or all to the private sector? The simple reason is that transit service contracting saves significant sums of public funds compared to direct public operation. At a time when we as a society have recognized that we must practice economy in our expenditure of public resources, it makes little sense to continue to encourage the operation of high priced transit services when less expensive options are available. ^{HR 5165} ~~The Moody amendment~~ will help encourage the utilization of the most cost-effective means of transit service delivery.

THE COST SAVINGS POTENTIAL OF TRANSIT SERVICE CONTRACTING

In the course of our research at UCI, which has been funded by UMTA, we have determined that cost savings of 10 to 60 percent are possible with private sector contracting. Tables 1-3 summarize some of the more revealing findings of our research as they bear on the issue of cost and subsidy savings. As can be seen from an examination of these data, large cost savings are possible for all types of transit services. Compared to large regional transit agencies, private contractors can provide fixed route service at 25 to 50 percent lower costs. Cost savings for demand responsive services are usually on the order of 50 percent or more. Even compared to service provided by relatively small municipal governments, who produce transit much less expensively than most regional transit agencies, private contractors typically have a 10 to 20 percent cost advantage.

Tables 2 and 3 illustrate that subsidy savings are even greater than cost savings. The larger percentage reduction in subsidy requirements occurs because the cost savings from service contracting may eliminate all or most of the operating deficit of a service. This means that the impact of service contracting on public budgets will be even more dramatic than the direct cost savings made possible by this strategy.

TABLE 1
Estimated Cost Savings for Fixed Route Bus
Services Operated By Private Contractors

System	Cost Difference	Basis of Cost Comparison
Yolo County (CA) transit system	-42%	actual operating costs
Tidewater Transit (VA) bus route	-48%	private operator unit costs vs. agency unit costs
Phoenix Transit bus route	-62%	private operator unit costs vs. agency unit costs
San Diego County transit system	-36%	direct comparison with San Diego Transit Corporation unit costs
Carson (CA) transit system	-53%	competitive bids
6 privately contracted systems in Connecticut	-32%	private operator unit costs vs. Connecticut Transit unit costs
Golden Gate Transit subscription service	-25%	private operator actual costs and cost model calculations for GGT
Hammond (IN) transit system	-9%	unit costs of private operator and 4 small publicly operated IN systems
9 privately contracted systems in California	-22%	unit costs of private operators and 9 small publicly operated CA systems
3 privately contracted systems in Minnesota	-15%	unit costs of private operators and Mankato transit system (public agency)

Sources: Data obtained from public agencies responsible for transit planning and provision, from private operators, and from Section 15 Report.

TABLE 2

Comparative Cost of Operation of Golden Gate Transit
Subscription Express Bus Service

Provider	Cost	Subsidy
Private Bus Companies	\$1,589,510	\$575,480
Golden Gate Transit	2,123,260	1,109,230
Difference	+33.6%	+92.7%

Source: Golden Gate Transit Annual Report and data supplied by transit agency.

TABLE 3

Comparative Cost of Operation of Yolo County Transit System

Provider	Cost	Subsidy
Sacramento Regional Transit	\$1,442,000	\$1,138,000
Private Bus Company	835,450	531,450
Difference	-42.0%	-53.3%

Source: Data supplied by Yolo County.

What accounts for these large cost savings by private contractors? Three factors are primarily responsible. First, private operators typically pay somewhat lower wages than public transit agencies. Second, they normally have much less restrictive work rules, and therefore are able to achieve more productive use of their personnel. Third, they usually have less overhead expenses, as they operate leaner organizations and can also spread administrative expenses over both public and private operations.

THE EXTENT AND MAGNITUDE OF TRANSIT SERVICE CONTRACTING

All available evidence indicates that private sector contracting is a relatively common method of delivering certain types of public transportation services. In California, counting different services such as fixed route buses and DRT as separate systems, approximately 55 percent of transit systems in the state are provided by private operators under contract to public agencies. In Minnesota, most cities outside the Twin Cities area which have a transit system obtain their service through contracting. California and Minnesota appear to be national leaders in transit service contracting, but even at the national scale service contracting is more prevalent than often realized. More than 10 percent of all fixed route systems which receive UMTA Section 9 funds are operated by private contractors, and about 50 percent of all demand responsive transit systems which utilize Section 9 funds are contracted in

their entirety to private operators. Overall, nearly two-thirds of such DRT systems use a private contractor in some capacity. Counting different services as separate systems, more than 30 percent of the separate services funded through Section 9 engage in contracting, according to the Section 15 data. We are currently performing a national survey of transit service contracting, and the early returns show nearly 30 percent of all respondents doing at least some service contracting.

Given that service contracting appears to be so widespread, the obvious question is why anything needs to be done to encourage it. The answer is to be found in data on expenditures on contracted systems. Although more than half of all the public transportation services in California are privately contracted, only 4 percent of California's transit operating expenditures go to contracted services. Similarly, at the national scale only 2.6 percent of the expenditures for bus and paratransit services funded by Section 9 are accounted for by privately contracted services. For fixed route services, the figure is a mere 1.4 percent. Outside of a handful of notable exceptions, contracted services are small scale in nature and often involve supplemental services such as DRT for the elderly and handicapped. Thus the impressive numbers of systems which engage in contracting give a false picture of the true magnitude of this practice.

There are some notable exceptions to the pattern of service contracting being relegated to small systems or supplemental services for a restricted clientele. In Houston and Dallas, the

regional transit agencies have contracted out much of their peak period express bus service. The Houston system uses 113 buses of private contractors, and the Dallas system uses 60 buses, with plans to expand. Phoenix Transit has completely eliminated Sunday bus service and substituted privately contracted DRT service in its place. The Orange County Transit District in California has the largest DRT system in the entire country, consisting of 130 vehicles, and the entire system is contracted to the private sector. Also in California, both San Diego County and Los Angeles County contract with the private sector for all transit service in the unincorporated areas for which they are responsible. In both counties, the total expenditure for transit is several million dollars. And in Westchester County, New York, an entire fixed route transit system involving 321 buses and ^{over \$30} ~~nearly \$15~~ million is contracted to private operators.

Given the demonstrated cost savings potential of service contracting, why is it so infrequently utilized on a large scale? Our research indicates that opposition from transit labor and skepticism, if not outright resistance, from transit management are key obstacles to large scale contracting. Equally significant, however, is the fact that there is often relatively little motivation to contract given the incentive system facing public transportation decision makers. To understand what factors promote transit service contracting, it is necessary to look at situations in which it is a frequent occurrence.

FACTORS PROMOTING TRANSIT SERVICE CONTRACTING

In most situations where transit service contracting is routinely utilized, funds for transit are either quite constrained or have alternative uses. This typically causes public officials who make transit service decisions to be quite cost conscious. In California, for example, transit funds can also be used for highway purposes in non-metropolitan counties. Not surprisingly, transit contracting is the norm in such counties. Relatively few public agencies operate transit services directly in these areas of the state. Elsewhere in the country, a similar pattern is observed. Tidewater Transit, Phoenix Transit, and the Counties of Westchester and Suffolk in New York State, all of whom make notable use of service contracting, must each rely on non-dedicated local funds for a significant portion of their budget. Public officials in these areas stress cost-effectiveness in use of limited moneys, and the result has been to propel the transit system into the contracting arena.

On the other hand, many medium to large transit agencies are financed in part by dedicated local funds. Dedicated funding removes much of the incentive to maximize cost-effectiveness, as the funds cannot be used for other purposes. In addition, the structure of the UMTA subsidy program encourages recipients to buy buses with capital funds and then use operating subsidies to place those buses in service. As long as public transit agencies view federal subsidies as "their" funds, to be used to operate their own services

directly, service contracting has little opportunity to make major in-roads. Only when public officials become actively involved in transit service delivery decisions, because they can see that there are obvious pay-offs by improving cost-effectiveness, does service contracting become a major option. The pay-offs depend in large part, however, on being able to use funds more flexibly than is currently the case in many systems.

HOW THE MOODY AMENDMENT COULD STIMULATE SERVICE CONTRACTING

The research we have conducted at UC Irvine has revealed that transit service contracting is a commonplace means of obtaining transit when public agencies have strong incentives to maximize cost-effectiveness in making service delivery decisions. Under such circumstances, public agencies may contract out the operation of an entire transit system, whether fixed route or demand responsive in nature. The money saved compared to public sector operation can then be used to provide more transit service, to keep fares at affordable levels, or to assist in the provision of other public services.

^{HR 5165}
~~The Moody amendment~~ would begin to incorporate similar types of incentives into the UMTA subsidy program. By allowing recipients to use capital funds to purchase service as an alternative to direct public sector operation of transit, transit decision makers would enjoy additional flexibility in use of their UMTA funds. Those recipients who will receive an abundance of capital funds could use them to buy service rather

than to buy buses. The former option provides mobility directly, whereas the latter necessitates additional public expenditures before service can be provided. The essence of a rational subsidy program for public transportation is that it provides local decision makers with strong incentives for using funds in their most cost-effective fashion. Only in this way can the underlying causes of transit's fiscal problems be ameliorated. ^{HR 5165} The ~~Moody~~ amendment represents a first step in the direction of a subsidy program which creates incentives for cost-effectiveness, and for this reason should have a positive impact on the transit industry. Any policy which facilitates service contracting will create net benefits to the people in this society who rely on transit for their mobility.

Mr. ANDERSON. Our next witnesses are a panel consisting of Don Boyles, the president of the California Bus Association and Jim Carson, Commuter Bus Lines, Lynwood CA. He is president of the Bus Association of Southern California. Also Tom Evans, Southwest Coaches; Hil Hornung, executive vice president of Community Transit Services, Inc.

I do have the prepared statements of Donald Boyles, Tom Evans, Hil Hornung, and Jim Carson. I do not have the one for Ron Monarch, anyway. Your prepared statements will be printed in the record. And again, I have you listed here as Boyles, Carson, Evans and Hornung, but you can take it any way you want. That is in alphabetical order. You can extemporize and proceed any way you wish and then we will ask our questions, whatever we have, to the whole panel. Well, Mr. Hornung, why don't you begin.

TESTIMONY OF HIL HORNUNG, EXECUTIVE VICE PRESIDENT, COMMUNITY TRANSIT SERVICES, INC.; JAMES CARSON, COMMUTER BUS LINES, LYNWOOD, CA, PRESIDENT, BUS ASSOCIATION OF SOUTHERN CALIFORNIA; DON BOYLES, PRESIDENT, CALIFORNIA BUS ASSOCIATION; AND THOMAS W. EVANS, PRESIDENT, SOUTHWEST COACHES

Mr. HORNUNG. Well, thank you, Mr. Chairman and members of the subcommittee. My name is Hil Hornung. I am executive vice president of Community Transit Services, Inc., based in Santa Ana, CA. CTS is the operating division of DAVE Systems, Inc., also headquartered in Santa Ana. DAVE Systems has been in existence for 16 years, providing full-service transit management to cities, counties, and transit districts. DAVE Systems currently employs 700 people operating 300 vehicles for 40 transit systems.

We are a private corporation that pays taxes and makes profits. DAVE would not enjoy its current success if it did not provide de-

pendable service at a reasonable price to its clients. To this end, we are proud of the fact that in operating 40 million miles since 1969, we have saved over \$20 million for taxpayers throughout the United States.

DAVE is not unique in this, of course. As you already know, the substantial cost savings in a variety of privately operated public transit services has already been well documented. However, it might be instructive to distinguish between the kinds of private management assistance available to public agencies. To do this, I would like to refer to a newspaper article in the Contra Costa Times of December 10, 1983, entitled "AC Transit's Hard Times Getting Worse." AC Transit is a major conventional public transit system serving Oakland, CA and parts of the suburban Contra Costa County.

According to Reporter Roland Dewolk:

Two months ago Tri-Delta Transit, the bus service for East County, dropped AC in favor of Community Transit Services . . . to deliver services for \$1 million a year instead of the \$1.7 million it now costs Tri-Delta.

AC drivers are paid \$12.21 an hour, County Connection . . . drivers . . . \$8.48 an hour . . . and CTS . . . pays their . . . workers about \$5.25 hourly.

As I mentioned, AC Transit—the Alameda-Contra Costa Transit—is a conventional public transit system. County Connection is the Central Contra Costa Transit Authority. It employs a private management firm to run the system, but its employees are permanent members of the transit authority work force. Tri-Delta Transit is the Eastern Contra Costa Transit Authority, which contracts with CTS to operate its system. Unlike AC Transit and County Connection, however, the drivers and mechanics of Tri-Delta Transit are employees of CTS, not the transit authority.

Although there are several reasons why our wages are 43 percent those of AC Transit, and 62 percent those of County Connection, one important factor is competition. Our employees understand the reality of full-service contract management in that if CTS' costs of operation substantially exceed those of competing private bus companies, CTS will be replaced.

At this point, I want to emphasize that we do not claim to be able to operate the transit system of Oakland with \$5.25-an-hour drivers. Nor do we question the capability of AC Transit, which has a long reputation of responsive and responsible management. Our only point is that in marginal suburban and other special purpose settings, full-service, private management seems to be more efficient than conventional urban transit.

Again, I believe that most of you are persuaded that private transit can be cheaper in a number of situations. But some of you may have lingering doubts about other aspects of private operation.

What about the quality of our service, for example? Are our drivers as safe as directly employed operators of public transit authorities? I am proud to report that DAVE Systems' fixed-route bus operations have experienced one preventable accident for every 73,000 miles of service, in contrast with the transit industry standard of one preventable accident for every 18,000 miles of operation. And we employ a far stricter accident definition than most of our peers in public transit. Every time one of our drivers clips a mirror, that's a preventable accident.

Are we antipublic transit authorities? Not in the least. DAVE Systems is proud to be a member of the American Public Transit Association. I personally am proud of my 16 years of management experience with public transit authorities. Many of our clients are public transit operators who recognize the advantages of our service. We, on the other hand, recognize that there are limits to our effectiveness.

Are we antilabor? Again, no. Many private operators, including DAVE Systems, employ union drivers and mechanics. For example, even though our Sonoma County Transit operating personnel are unionized, their wage scales are not as high as union drivers of Santa Rosa Transit and Golden Gate Transit, who drive many of the same streets. Why the difference? Union demands at the bargaining table are tempered by the realization that excessive short-term gains will only result in replacement of their members by employees of less costly competing contractors.

Hopefully, having reassured all of you about the efficiency and effectiveness of private transit, I would like to comment on the proposal to stimulate further employment of private transit by the Federal Government.

DAVE Systems welcomes this initiative. Naturally, you can count on us to do all we can to assist you in understanding our side of the business—what we can and can't do. While we applaud the intent of the proposed legislation, our enthusiasm is somewhat restrained by the feeling that its real impact may be minimal.

To go right to the heart of the matter, we believe that the proposal to trade off bus capital assistance for private contracting will have limited appeal for many transit managers. This is based on the fact that bus replacement needs and appropriate private opportunities will not often coincide. Only a small percentage of a typical transit system's fleet requirements will be for peak hour express or suburban circulation service. Result: When a manager needs replacement buses for urban local service, he will not see any advantage in private contracting.

More compelling, however, is the financial reality that bus purchases are one-time costs effectively amortized over 12 years. Ten \$150,000 buses, for example, should generate \$1.2 million in UMTA capital assistance, or \$100,000 annually. Substitution of private contracting would buy the equivalent operation of only one bus annually. Most operators would question the wisdom of such a trade-off.

This is not to challenge the intent of the legislation, which is to open up private opportunities through equalizing the competitive advantage public operators now enjoy in purchasing buses with 20-cent dollars. When DAVE purchases the same vehicles, though, our cost is not just 100 percent, but 115 percent when factoring in the long-term cost of borrowing. This can all but wipe out private transit's cost advantage for riders and taxpayers alike.

Our solution is straightforward. Allow private operators to purchase buses with the same Federal assistance allowances as public operators, so long as the vehicles are dedicated to Federally assisted transit purposes. If private operators are unable to fully comply with current Federal conditions, or if they wish to use the vehicles for other purposes, reduce the amount of Federal assistance. How-

ever, the closer private operators come to accessing Federal bus capital assistance, the more transit riders and American taxpayers will enjoy the benefits of private enterprise.

Thank you for the opportunity to present our views on this important subject.

Mr. ANDERSON. Thank you very much, Mr. Hornung.

I would like to have all of you make your statements, then we will direct questions to all of you to answer.

Mr. CARSON. My name is James Carson. I am vice president of Commuter Bus Lines, Inc. in Lynwood, CA and president of the Bus Association of Southern California—an organization representing 14 of the larger private bus providers in the Metropolitan Los Angeles region engaged in fixed-route public transit, airport, and for-hire bus services.

It gives me great pleasure to appear before you today in support of H.R. 5165 allowing public transit agencies to pursue contracting with private carriers by the use of Federal capital assistance funds. I am also pleased to have an opportunity to visit San Diego, having served as assistant general manager of San Diego Transit from 1969-70.

Speaking for Commuter Bus Lines, for almost 40 consecutive years, we have specialized in home-to-work commuter express services to major employment centers in southern California.

We currently operate 25 bus routes serving the long distance commute needs of employees in the aerospace/airframe, telecommunications, and shipbuilding industries located throughout the Los Angeles urbanized area. These particular services are sustained solely from passenger revenues.

Commuter Bus Lines also provides commuter express service from Riverside to the Santa Ana Civic Center and Huntington Beach, respectively, under contract with the Riverside Transit Agency.

Private enterprise commuter bus services in the southern California region were the subject of a 1982 study conducted by the Southern California Association of Governments [SCAG]. This study, "Commuter and Express Bus Service in the SCAG Region: A Policy Analysis of Public and Private Operations," concluded that significant cost reductions would be achieved if private providers were used on public operated express lines. The study revealed that savings on just 22 Southern California Route and Transit District [SCRTD] and Orange County Transit District [OCTD] express lines amounted to a 50-percent cost advantage resulting in a \$5 million reduction in 1982 dollars. If contracting were expanded to other public operated express routes, cost savings in 1985 dollars could result in relief from the steep fare increases due in fiscal year 1986.

Public policy that excludes contracting only hinders mobility for the sake of perpetuating a public monopoly over all types of transit services. This was never the intent of the Federal legislation. The Urban Mass Transportation Act of 1964 intended to provide for the protection of private operators from being foreclosed by the public sector. However, this certainly was not the case over the years. Many efficient nonsubsidized private carriers were barred from the provision of mass transit services by subsidized public agencies. The public sector, which has access to operating subsidies, gained

monopoly control of the urban transit market through unfair subsidized competition.

Because of the misinterpretation of the UMTA Act of 1964, public operators acted in predatory fashion to preclude private providers under the incorrect assumption that public agencies were mandated to provide all services without cost considerations.

The ability of the private provider to deliver efficient and cost-effective transportation service has recently been reemphasized by UMTA's October 22, 1984 private sector initiative. This policy reaffirms and strengthens those statutory requirements that have always acknowledged the private sector as an asset to public transit.

Now that the private sector is being recognized as a resource, H.R. 5165 supports the goal of efficient development of urban transit services by giving public agencies the flexibility of contracting with private carriers with available equipment instead of purchasing new motor vehicles. The bill will encourage public policymakers to concern themselves with mobility and not a monopoly on the output of services.

In Los Angeles County, an example of the success of competitive contractual bids between public and private sectors is the Santa Clarita Valley express service to downtown Los Angeles. This service is presently being operated at 50 percent of the cost of comparable public operating express services and the private provider, Antelope Valley Lines, includes the capital cost of that equipment. Capital items are always excluded in public sector operating costs.

Contrary to popular myth, many private providers have been able to survive in spite of the growth of the public sector. There is no mystery to this fact. The secret to the survival of the private sector is the degree to which private providers were able to adapt to the disciplines of the competitive market for services not dominated by the public operator, such as charter and airport services, et cetera. Some private operators like Commuter Bus Lines designed services to meet the expanding peak-period demands that were not attractive to large public operators. Private sector cost structures are determined by market forces and the ability of the operators to satisfactorily meet the needs of the public in a competitive environment.

In closing, I would like to quote from a recent talk by the Southern California Rapid Transit District general manager, Mr. John Dyer, to the Southern California Transportation Action Committee's January 1985 forum. I quote in part:

There's a big role for private transit supplementing the existing system . . . Substituting private operators and developing a coordinated, integrated system. That's what ought to be happening and I don't see it happening yet.

I want to assure you, my company and the organization that I represent is an ally of public transit. In fact, I also would like to point out that I too, served some 12 years in public transit. Our services can enhance public transit, not hinder it. Again, we support H.R. 5165 because it carries a clear message that the public sector and private sector can form a partnership by using contracting as a cost-effective tool to help sustain vital mass transit services to the public. Thank you.

Mr. ANDERSON. Thank you, Mr. Carson.

Mr. Boyles.

Mr. BOYLES. Thank you, Congressman Anderson. My name is Donald Boyles and I am president of the Airport Service, Inc. of Anaheim, California. I speak today as president of the California Bus Association, of which my firm is a member.

Public transit is essential to our urban areas. Many of our citizens rely upon it for all of their mobility. Transit contributes to the air quality, energy conservation, and congestion relief. Yet the future of public transit is threatened by continuing cost increases and a public financing climate which renders infeasible further revenue increases. Transit agencies have largely responded to these challenges with fare increases and service reductions. The real losers in this process have been the riders who depend upon public transit.

The 1964 Urban Mass Transportation Act, as amended, requires that private providers be utilized in public transit service to the maximum extent feasible. Regrettably, private providers have been utilized to a minimum extent, contrary to congressional intent.

There are, however, important indications that this is changing. Increasingly, public transit authorities are contracting for services with private bus operators, reaping significant cost savings. Competitive contracting provides an opportunity to meet budget constraints without negatively impacting the riders by raising fares or reducing service levels.

An important proposal by Congressman Jim Moody promises to increase the options available to local policymakers in meeting transit needs. Both the American Bus Association and the California Bus Association heartily endorse this proposal which would make it possible to utilize some Federal capital funds for service contracting on a competitive bid basis.

We in the private bus industry stand ready to participate in this most important effort of providing public transportation service. Cost savings from private operation of selected services will mean higher levels of service and lower fares for riders. These savings will also reduce the necessity for additional public revenues, both at the Federal and local levels.

Thank you very much.

Mr. ANDERSON. Well, thank you, Don, for your presentation. Next, Tom Evans, Southwest Coaches.

Mr. EVANS. Mr. Chairman and members of the subcommittee, the two things in this world I like are eating and talking about buses. Since the hour of the former is approaching pretty quickly, I am going to be brief about the latter.

My name is Thomas W. Evans. I am president of Southwest Coaches, Inc., located here in San Diego. We have been operating throughout public transit service since 1977 and providing contracted-for service since 1980. I've been in the bus business for 25 years, including 6 years as a more or less ineffectual general manager of public agencies.

We have had private contracting in the San Diego region since about 1969, when the city of Chula Vista implemented a local transit system there and employed Aztec Bus Lines to provide the service. Today, we have six private sector contracts in the San Diego

region for scheduled-fixed route bus service. Four public agencies are involved and four separate contractors are involved. In addition to that, there are some contracts for dial-a-ride under specialized services. The annual value of the six contracts, however, is about \$4.8 million, involving about 56 buses operating on 21 routes.

Now, the frame for each contract is somewhat different. In some cases, contractors supply their own buses. In other cases, the public agencies acquire them. In some cases, the contractor provides the operation's headquarters, such as others and city corporate yards are used. In addition to that, there are a range of ancillary services provided, which may include planning, scheduling, bus stop maintenance, public information, et cetera. The regional performance indicators seem to indicate that this system is working well. The costs are being maintained. The service is being operated as safely and expeditiously as service by public sectors is generally operated. And I think today nobody in San Diego questions the private sector's ability to function.

I would like to point out, though, that although progress is being made nationally, particularly in regions like San Diego, there are concerns about the matter of contracting with private agencies. And along the lines of being optimistic, the progress has been and will be made. I want to talk about some of the problems that Congressman Moody might incorporate into a new draft of this bill. And to do that, I want to illustrate what are some of the difficulties that private and particularly small private firms are having in contracting for services, locally around San Diego.

One problem that is very near and dear to my heart is these excessive performance bond requirements. And all I have to tell you is that the insurance industry, and therefore the bonding industry is in a world of trouble at the moment, and are being very selective about issuing bonds.

Just last week, the city of Chula Vista received proposals for a 3-year contract for their transit service. For the second time in a row, I submitted a bid that did not comply, because I was unable to attain a performance bond, in this case, in the amount of \$500,000. That is a pretty stiff bond for a small operator. Now, I have to tell you that we are operating larger contracts currently, which happen not to have bonding requirements like that and we have been doing so for 5 years and we have never missed a day of service and never missed a payroll. I should also tell you that our net worth is greater than the bond amount, that we are making a profit and we have no credit problems. But despite all that, a small organization has extreme difficulty meeting stiff bonding requirements that seem somewhat out of proportion for the amount of risk that a public agency is subjected to.

Second, a recent local bid package contained a requirement that the prospective bidder identify the operations site that he would use as successful. And it is in a very remote area. Now the problem there is obvious. How are you going to go to get some property unless you are a successful bidder? There usually are about six bidders around here and I do not think six people are going to go to obtain six different sites so that they can bid. It is just a matter of priorities. Obviously, the site ought to be subject to approval and be obtained after the selection is made.

Long waits for payment. This is not a terrible problem here, but it is serious because it involves capital. Typically, one has to wait 1½ or 2 months to be paid and finance the operation out of one's own hip pocket in the meantime. This can exclude various operators and represent the men with barrier of entry.

PENALTY PROVISIONS

This is a growing phenomenon around town. In one recent package, there is a liquidated damages provision for \$10,000 a day for every day that a new contractor might be late in inaugurating service. Now, this is on about a \$1 million a year contract, involving about 10 buses. It seems to me that the punishment doesn't fit the crime.

Quick cancellation clauses is a problem. I think virtually all the operation contracts in this region contain a very easy out for public agency, usually ends on public agencies convenience, lack of ability to obtain mandated funding. But nonetheless, you have to recognize that when a small private operator goes down, his financial backer, be it a bank, a venture capitalist, or bonding company they look with jaundiced eye at a contract which contains a unilateral quick escape clause.

Now, because San Diego Transit has been on the leading edge of contracting, it only makes sense that these are not intended to be barriers. What I am telling you, despite that that they are barriers, and they are particularly barriers for extremely small operators, and the effect of that is limited entry and limited competition, which therefore undoes us the very good that is intended to be done.

Despite all that, also, I must tell you that the existence of competition here, particularly in about the last 5 years has been doing some good. After the third contract with a private firm was left a few years ago, the San Diego Transit Union gave management a \$5.20, \$5.27 per hour driver's wage, called a community based wage, for use in contracting situations, thereby allowing the public agencies to bid competitively with private companies. Now I hate that selfishly. But the point is, the union is able to distinguish between competition and monopoly and that shows it.

Now, a word of caution that I would like to note. As private contractors gain acceptance and gain discussion around the country, I have heard a great deal about the use of private contractors in providing marginal services. In the fringe areas, low headways, all vehicles, the putsy-putsy-kitsy services, I have no objection to private contractors doing that. I would strongly urge, however, that in the redraft of the bill, that the role of private operator not necessarily be restricted to that. Each local decision ought to be made on a local basis. I would like to point out that out of the fragment of operations currently functioning in the country, most are innercity bus operators, who operate buses as large and as least as sophisticated as public transit buses. And that is the skills that those people have regularly employed over the years—personnel skills, maintenance, operations, insurance, labor relations and the rest of us—are skills which are readily transferrable to public sector. I urge then, that thought be given to keeping the door open enough

that, where appropriate, a private operator could be used for any fixed-route service, in cases where they did not.

Mr. ANDERSON. Thank you, Mr. Evans, for your presentation. I have a few questions I will direct to any or all of you. My first question is, How will you go about bidding for a service? How do you know what kind of ridership to expect?

Mr. CARSON. With respect to bidding for service, that would be something that the agency, calling for bids, would outline in a bid proposal.

Mr. ANDERSON. Well, as a rule of thumb in the public sector, it usually takes between 18 and 24 months to build up ridership on a new route. What happens if you don't get the patronage that you expected? Are you prepared to be stuck with those routes?

Mr. EVANS. Chairman Anderson, the bidder and the contractor, if he is successful, is or should be vitally concerned about that, because he wants to see the system work. But, on the other hand, he is bidding on a cost per hour or a cost per mile basis. All of the revenues that are generated, at least in the overwhelming majority of the cases that we are all aware of, those revenues are the property of the contracting agency. They may be handled and even banked by the contractor, but they would be applied to the bill. So, irrespective of ridership realization being lower than projections, it would not be the operator that would get hurt, except for the extent that the public agency might have the right to reduce service under the contract as necessary to meet that situation as it develops. Now, most of the contracts have a provision that would allow the public agency some latitude in adding or subtracting buses or runs as necessary to meet the ridership demands that exist. The contractor would simply get paid for the amount of service that he actually operated.

Mr. CARSON. I think the monitoring of the performance of the contractor as it relates to the traffic envisioned, is very important and it is normally included, certainly from the policing standpoint, within the bid specifications.

Mr. ANDERSON. But, if you had bid on a route that has not been built up, and you do not know what the ridership is, and you are anticipating so much, and you bid it, and find that you are losing money, do you feel you are stuck then, with that bid, or what happens?

Mr. HORNUNG. Well, I would like to respond to that, Mr. Chairman.

Mr. ANDERSON. Sure.

Mr. HORNUNG. A number of our contracts are structured so that it is not only bid on a cost per hour, but the revenues as opposed to being turned over to the transit authority are retained by the operator. This is a built-in incentive by the contractor. Excuse me. This is a built-in incentive for the contractor to go out and hustle rides. We have found that the effect of it is to actually increase ridership over what the transit authority had projected. Now, it depends upon the individual situation. But I think that is one of the virtues of contracting out, is the flexibility that a public operator has in coming up with a contract situation like that.

Mr. ANDERSON. Mr. Carson.

Mr. CARSON. I do not completely understand the question from the standpoint. I can conceptually see contracting to the private sector being the provider of x number of vehicles, for x number of hours, over x number of miles. And the contractor bidding on that basis with the revenues derived from the operation, used as an offset to whatever expense is involved, that the contractor used as his forecasted cost.

Mr. ANDERSON. Yes; well, I think you are talking about contracting out sort of supplemental things to an existing system as being—I was thinking you are going in and tackle, maybe, the whole operation. And where your bid price is not enough to cover what it is going to cost you to do the job.

Mr. EVANS. Let me say this. It is always possible for an entrepreneur of any sort to make a grave miscalculation when he submits a bid. It happens on bridges. It happens on buildings. I cannot personally think of an instance, maybe some of the other people on the panel can, I cannot think of anywhere it has been so grave that the operator was unable to perform. They may lose a little money on a contract if they happen to misfigure and take it cheap, but likely as not, they will survive by subsidizing it from charter service or some other operation that they have until they get a chance to go back and submit what, for them, is a more realistic bid. I do not know of a single instance where a contractor has actually folded up his tent.

Mr. ANDERSON. I see. Mr. Boyles.

Mr. BOYLES. That area is rather limited. But I think perhaps as a result of the prebid conference, where a number of eligible bidders were brought together with the agency and given the problem and then attempting to determine who would then be able to perform. And those people who would actually bid upon it, and their qualification to do so, would be known by the contractor.

Mr. ANDERSON. Well, if I am not mistaken, California law requires transit buses to be lift-equipped or otherwise accessible to wheelchairs. Are each of you, in your bidding, prepared to meet that requirement?

Mr. HORNUNG. Where it is stipulated, that is how we bid; yes, sir.

Mr. ANDERSON. Now, Federal law requires that half-price fares be available for the elderly in offpeak hours. Are there any problems there?

Mr. EVANS. Mr. Chairman, again, all of my contracts, the public agency sets the fare. That is part of the given of the—in going in. They publish that in their request for bids or requests for proposals. They tell us the route that will be run, the time that the buses will run, the fares that will be charged, and the other aspects of the system. Those are policy decisions made by the public agencies. So, then, whatever fare they instruct us to require, we in fact, comply.

Mr. ANDERSON. So in other words, if they require that you give half-price fares for the elderly in offpeak hours to comply with the Federal law, and that the California law requires lift-equipped and so on, you then, would meet that in, each case. Is that—

Mr. EVANS. Exactly.

Mr. ANDERSON. Now, how about the civil rights and MBE requirements. Those are also applicable today to public transit.

Mr. EVANS. Well, again, every set of specifications is worded somewhat differently, but the specification which is published by the contracting agency, be it the county of Los Angeles, or whoever it might be, contains the requirements that the bidders need. And they are generally very complete in telling you what kind of equipment or what specifications, what civil rights issues may be at stake in that contract. It is then the bidder's responsibility to be prepared to comply if he bids and he knows he is going to be held to that.

Mr. ANDERSON. Well, you see if the local agency is coming up with their own money, then they do not have to worry about the Federal law. But we are talking about contracting out using Federal funds. Obviously then they would be governed by the selected surface transportation laws, UMTA laws, which specify what has to be done. So if you are going to use Federal money, you have to meet the requirements of Federal law. I wonder if you would meet all of those requirements in your contracting.

Mr. CARSON.

Mr. CARSON. Congressman Anderson, it is my experience we have always found that type of language in the bid document as it relates to meeting all regulations, when you say regulations, welfare regulations, Federal regulations that may be involved in that particular service.

Mr. ANDERSON. I have a couple more questions. But, first, maybe Mr. Moody would like to ask a question.

Mr. CARSON. Let me add that there have been bid specifications my company was unable to bid on, because we could not meet those requirements.

Mr. ANDERSON. Mr. Moody.

Mr. MOODY. Mr. Chairman, if you would yield on something, I think it is the clear intent of the bill not to use the contractors who are circumventing any Federal requirement, be they in the minority business area, handicapped area, or what have you. I might add that I think we will have testimony later to the effect that there is some contracting that is going on in this area, where they expressly do not use Federal money, because they don't wish to meet it. But, my bill would not change that, one way or the other. It would require that—it would not allow Federal requirements to be diluted or avoided simply because the contractor—all of those requirements would still pertain.

I did have a question for the gentleman from DAVE Systems, Mr. Hornung.

I guess your first preference would be to use 80 percent subsidy to buy buses for private companies as long as they're used in Federally relevant programs. You'd do it that way rather than on a contract basis. You'd still have a contract, would you not, but you would get the full—you'd have 20 cent dollars at your disposal to buy the buses.

Mr. HORNUNG. That's right.

Mr. MOODY. You would own title to those buses?

Mr. HORNUNG. Yes.

Mr. MOODY. Well, that's obviously a stronger dose of medicine than I'm proposing. I might say as it relates to the—this is much—

incentive and there might be some support for that, but it goes far beyond what I am proposing.

Mine is a much milder proposal.

Mr. HORNUNG. I understand.

Mr. MOODY. I might say in regards to the last paragraph on page 3 of your testimony, it was never intended—my proposal never intended to cover all of the operating costs. You know that there will always be operating costs, so the fact that it doesn't cover them all I don't think should be held as a criticism because we recognize that there's going to be operating money that's going to have to be available to match up with my—with the subsidy available under my proposal.

It's a capital equivalency concept. It's designed only to cover—to recognize that the private-sector provider has capital cost, too. So, it's not really and never intended to cover all of those operating costs. It is always going to be just a capital-equivalency concept.

It's recognizing we've got capital costs whether we're in the public section or in the private sector. Right now the playing field is tilted away from the private sector by making them pay 100 cents on the dollar or 115, as you said, as opposed to 20 cents on the dollar here. So, it's not an attempt to cover all operating costs.

It's not really—my program wouldn't be intended to cover the operating, labor, fuel, and those sort of things. It's the capital equivalency—

Mr. HORNUNG. We understand that, Congressman. We are simply trying to make the point that while we endorse the direction that you're going, we—

Mr. MOODY. OK, thank you.

Mr. ANDERSON. Section 8E of the UMTA Act requires that local transit planning process and programs "shall encourage to the maximum extent feasible the participation of private enterprise." That's in the current law. Do you have any comments on that?

Mr. CARSON.

Mr. CARSON. It certainly is something that really didn't move, if you will, until October 22, 1984.

Until that emphasis was made clear, I think that's one of the reasons that we hadn't seen more private contracting. There has just not been the utilization, if you will, of the private entities to draw them in on the planning process as it relates to forthcoming new services or revised services.

Mr. MOODY. Would the chairman yield?

Mr. ANDERSON. Sure, Mr. Moody.

Mr. MOODY. How do you explain that comment with what we've heard that there is in fact a lot of contracting going on?

Mr. CARSON. Well, I think there is a lot of contracting. Probably I should qualify myself by stating that I certainly speak of the standard bus vehicle, rather than the small type vehicle. I think there has been a great amount of contracting in transit of the handicapped and the elderly. But not in the basic transit concept of, certainly, my company.

Mr. MOODY. I suppose you probably also agree that where there is contracting with 40-foot buses, it isn't always with public money. It isn't always with Federal money.

Mr. CARSON. That's right.

Mr. EVANS. I'd like to expand on that just briefly, Congressman Moody.

We see—contracting for specialized services that are involved. I think what concerns us is a mindset in the public sector that may exist in which the private operators are not seen as capable of performing heavy service. We just think that's fallacious, and we would hate to see more legislation that might serve to perpetuate that myth.

Mr. MOODY. Let me point out that my bill doesn't actually preclude that—it doesn't preclude fixed-route service, which your comments, Mr. Evans, might be read to imply. The language is not to preclude fixed routes.

Mr. EVANS. It's the community——

Mr. MOODY. Well, it talks about supplemental specialized—three categories: Supplemental, specialized, and community collection.

Now, the community collection would be by 40-foot buses or it might not be. The specialized—supplemental rather might be peak hour—peak hour line or supplementing the regular line. It could be a route fixed with——

So, supplemental wouldn't preclude the 40-foot bus on a fixed-route system, although I can understand your concern. You're concerned about a mindset that always wants to see—that wants to see contracting out left to the, as you call it, corners on the market rather than the main——

Mr. EVANS. Exactly, and if the legislation could be construed to support that mindset, I fear that in some quarters it might——

Mr. ANDERSON. A survey of public transit properties has shown that fewer than 10 percent have gotten complaints from private carriers, that they weren't being contacted in implementing section 8(e).

Now, that sounds like a pretty good record. Would you comment on that.

Mr. CARSON. I'm not sure I understand that, Congressman. I think that—I think private enterprise to a great deal has or should probably be chastised from the standpoint that we haven't taken a stronger posture as it relates to extending ourself in the transit field.

I think that public sector transit was almost recognized as somewhat of a hallowed ground as it relates to the standard vehicle-type transit operation.

We just didn't. We stepped back. Quite frankly, in Los Angeles there was really no activity until proposition A came into being and because of the concern about the local taxing, half-a-cent sales tax and the fact that we're very much concerned about having to compete with any tax subsidized operation, that we banded together, as an organization, because we're so few in southern California, to make sure that we started to voice ourself with respect to making sure that people heard from the private sector.

I hope that answers your question.

Mr. ANDERSON. Yes; I think that does.

Mr. CARSON. You know I would like to point out that I come from a family in southern California, down in your area, and that we operated some extensive suburban operations prior to 1961 when the metropolitan transit authority took over our company.

And, I look today, with respect to operating costs—for example, in Long Beach yesterday, in the Long Beach—local newspaper—the general manager of Long Beach Transit pointed out that 22 percent of the operating costs was being recovered through the fare box.

Now, I'm concerned only from the standpoint that there is a great amount of savings that can be accomplished through contracting with the private sector, that if you can get them back or utilize them for improving transportation as it relates to benefiting the taxpayer, and anything relative to drawing upon private enterprise and the energies and the forces of private enterprise will be of benefit to the public, and we're going to be before you testifying in favor thereof.

Thank you.

Mr. ANDERSON. Now, I'm sure you heard me ask a little while ago about a New Jersey case history. Let me repeat from that study some of the problems experienced with private carriers.

First, they said they didn't have the ability to monitor the service quality of the carriers. That was one. And, that because each private carrier had its own revenue collection and accounting systems and economies of scale, improved revenue collection methods could not be implemented. And, third, they said they simply had insufficient control over how the service was provided.

Here is perhaps the most damaging quote. It says:

While the fare route and schedules of the carriers are subject to contractual control by the agency, the agency in reality has very little control over the operational policies of the carriers. Thus, the agency is investing huge amounts of money to provide bus service and has no real control over how that service is provided.

Now, short of creating a new huge transit bureaucracy, how can local government prevent this or control it?

Mr. HORNUNG. Mr. Chairman, if I may, I'd like to take that one because in 1982 I was the executive director of the Atlantic County Transportation Authority in New Jersey so I have some knowledge of the situation there.

As I think Wendell Cox pointed out very accurately—

Mr. ANDERSON. He's nodding his head behind there. So you're—
[Laughter.]

Mr. HORNUNG [continuing]. New Jersey is an interesting case because New Jersey, from the standpoint of transit management, was so far behind everyone else that they now find themselves—basically what happened was New Jersey was the last place in the United States to form a regional transit system, and I suspect that in 1979 when the report was compiled and there was no New Jersey Transit Corp.: First, the conditions were just exactly as you describe due to the unique situation in New Jersey; and second, they were trying to lay the groundwork for establishing a statewide regional transit agency.

As far as the thrust of your question, which is how can a public body protect itself from abuse by the private operator, I think that there's ample evidence of that in a number of locations around the country, but particularly in southern California where as the metropolitan planning organizations for the county or whoever contracts out, acquires experience in running the system that the specifications are written tight enough that the applicants are screened

early enough and that in some cases you can actually put in incentives for excellent performance and penalties for poor performance.

I know from our standpoint, most of the time we get incentive payments on some of our contracts. But, once we blew it and we had to pay a penalty and that didn't happen again. So, I think that the State——

Mr. EVANS. Just to go on that a little bit, Mr. Chairman, let's go all the way from the east coast to the west coast and right here to San Diego County where there in one situation that I happen to be knowledgeable about because we've worked with this fellow. In San Diego County there is a man who has direct responsibility as part of his job for at least three service contracts, perhaps more.

Now, he's not having any trouble getting compliance out of his contractors. Once in a while he gets on us about something that we don't like, but he's doing his job to comply with whatever we—but, it doesn't seem to take a great staff management in terms of time and dollars to coordinate these services to keep going. I think as Mr. Hornung says, an awful lot of it is accomplished in the qualifications of bidders before the contract ever begins in the first place.

Mr. MOODY. Were you referring to the 1979 studies—referred to 1978 and more data. Generally, the study generates a lot of important questions. I think it would be generally helpful for the committee if we go back and look down at the data and it——

Mr. ANDERSON. I expect you to read a lot of this stuff you're hearing today. [Laughter.]

Mr. MOODY. I just want to point out that it may or may not relate to the——

Mr. ANDERSON. Susan, do you have anything that you——

Ms. FRY. I was just going to add that that might be somewhat out of date as far as New York. We were out there 2 weeks ago talking to the officials in the Westchester County system and their biggest gripe about their system and what they thought was their weakest point was that although they contract with several different operators the majority—about 95 percent of their service is operated by one company and the county doesn't feel they get the information they need to know what's really going on.

The county doesn't really have the day-to-day control over operations and they're not certain that they are not, at some point, helping subsidize the private operators charter service because they don't get all of the pertinent financial information. The county only receives final figures but nothing in terms of backup documentation.

Do you provide that type of information to your contractors?

Mr. CARSON. I'm going to answer that question. I've been serving in an administrative capacity under public operations and this was in Honolulu, Hawaii, and in Honolulu our services were contracted to a management firm that in effect ran the buses for the city and county.

I was hired because of my expertise, if you will, in transportation, to monitor that system and make sure those performances met the criteria that we had established in our bid specifications.

Does that answer your question? If you think of their——

Ms. FRY [continuing]. Pointing out the weak points.

[Simultaneous discussion.]

Mr. EVANS. Well, I might also say that I was in a parallel situation to Jim. I was the transit administrator for the city of Phoenix, the first one they ever had. The bus system then was somewhat smaller than it is today, but it's a major city now and it wasn't then.

I had a staff of myself and one half-time secretary, and I like to tell the joke that one day I got so bored I almost went to an area movie. That the system was running well. One administrator was more than adequate to monitor the performance. They still have the same contractor. They go to bid once in a while. But, their cost has remained consistently lower than the cost of direct operation and that's why they do it. And, they do it because they use general fund money to subsidize that system.

Now, I was personally irritated once in a while because I simply wanted to get my hand in it. I was an old bus driver. It wasn't because of any errors of theirs. It was simply because the thing was running smoothly and it was hard for me to find projects.

Ms. FRY. But, you don't have any problems with providing that kind of information to the agencies you contact with.

A private operator out there told us that he regarded it as an excessive and extreme intrusion into his private operations.

Mr. EVANS. Well, now in our contracts are provisions that provide for, for example, the public agency audit periodically. They do periodically. We have never thrown the auditors out. We've never had any disagreements with them. They're not coming to see how much money I spent taking my secretary to lunch. They simply want to make sure that the fares we collected were appropriately handled and banked and that any cost items which had any relevance to the contract were properly reported, and that the information that they require for various purposes was there and available. We just never had any problem.

Mr. BOYLES. In the contract that I'm familiar with, we have clearly required by the contract a breakdown of costs by category, so that they can be reviewed as to their validity and on each occasion when contractor rebid the same was required and the agency did require us to hold our books open for inspection if required. So, I think it can be had in the contract specifications.

Mr. MOODY. Ms. Fry, do you know?

One question he raises concerning which needs to be addressed is the question of subsidization of noncontract business, that is, the charter business. There were fears in Westchester County there may be some suppressed subsidy.

Ms. FRY. Yes; the county is afraid that because they don't get all of the information that they need, they might be helping to subsidize the private operators outside operations, the private operator conducts an extensive charter operation on the side.

Mr. MOODY. It seems to me that there are two safeguards against that. I don't know that they'd apply out there. But, one would be just a kind of a requirement that—written into the contract that the financial information regarding the service contracted for be fully available. They may not have it in the contract.

The other one is, of course, that with the competitive bidding system the company that tries to subsidize other parts of his business on this contract may find that it isn't in the contract. I mean,

that's the penalty for attempting to cross-subsidize—you may be facing competitors that aren't cross-subsidizing.

I mean the discipline of the bid system is—should guard——

Ms. FRY. Yes; I think that is one of the problems in New York because of franchise laws they are not allowed to do competitive bidding and that could be part of the problem.

Mr. EVANS. Mr. Chairman, one more point there quickly.

Right here in San Diego County—the county of San Diego which has several service contracts—has two that I think of that are in direct contrast and it's interesting to see what they've done and why they've done it.

Why is a fixed-route contract using transit buses? Now those transit buses, number one, are provided by the county. No. 2, they're in daylong use, 6 days a week. And, so in that contract, the county requires that the buses be dedicated to their use and that they not be diverted to be used for anything else, and they're able to monitor that very easily. If somebody tried to send one of those buses to the ballgame with a bunch of people from the Elk's lodge they'd be in big trouble. That's not what they're for.

On the other hand, the very same county in an opposite situation has a contract for commuter buses. In that case the contractor provides the buses. They only run for about an hour in the morning and an hour in the afternoon. There they desire that the operator use the buses for other things at other times because it brings their costs down.

Mr. MOODY. In that case they actually encourage it.

Mr. EVANS. Because that way they don't have to pick up 100 percent of the overhead.

Mr. ANDERSON. Well, thank you very much for an excellent presentation. Mr. Boyles, Mr. Hornung, Mr. Carson, Mr. Evans. An excellent presentation.

[Mr. Evans' prepared statement follows:]

TESTIMONY OF THOMAS W. EVANS

before the

Surface Transportation Subcommittee

United States House of Representatives

April 11, 1985

My name is Thomas W. Evans. I am president of Southwest Coaches, Inc. located here in San Diego. We have been a private provider of scheduled bus service since 1977, and have been engaged in private sector contracting with public agencies since 1980. I have been in the bus business for twenty-five years, including six years as general manager of public transit agencies.

Private sector contracting has existed in this region since 1969, when the City of Chula Vista inaugurated local service using Aztec Bus Lines as contract operator. Today there are six private sector contracts for scheduled fixed route bus service here involving four public agencies and four contractors. The annual value of these contracts totals approximately \$4.8 million, involving 56 full sized buses operating over 21 routes.

Some of these contracts use contractor owned buses, but others use publicly procured buses. In some cases the contractors provide operations facilities, and in others, city corporate yards are used. In addition, a variety of ancillary services are provided by the private contractors which may include data collection, bus stop maintenance, customer information services, scheduling, and planning.

Regional performance indicators demonstrate the private sector's ability to perform safe and reliable transit service, and nobody here seems to seriously question that capability. At the same time, there has been institutional resistance to the privatization of public transit. In an action which was later rescinded, one city council forbade another public agency's private contractor the use of its streets. On the bright side, that impasse gave birth to a regional dispute resolution process which should prevent any recurrences.

Despite a growing recognition of private sector contracting as an element in the transit strategy of metropolitan San Diego, I am concerned about a growing phenomenon which could counterproductively inhibit private participation. I shall refer to this phenomenon as "Barriers to Entry."

In the contracting process, procuring public agencies are inserting increasingly onerous requirements that bidders or contractors must meet. At best these are impediments whose costs must be passed to the public; at worst they can prohibit a firm's participation in the process. Recent examples are:

(1) Excessive performance bond requirements. Intended to ensure a contractor's performance, the use of these bonds and, most significantly, the amounts required threaten the very ability to participate, especially on the part of newer or smaller firms. One current example is a city's call for a \$500,000.00 performance bond covering a three-year contract valued at about \$3 million. My own firm, and I understand some others, were unable to obtain such a bond. My company has twice within the past three years been unable to obtain large bonds, losing the opportunity to bid for some \$6 million in business. I should add that my firm has a positive net worth in excess of the bond amount and no credit problems.

(2) A requirement that each bidder for a certain contract designate the specific location of the maintenance shop proposed for the fairly remote service area. Naturally, nobody can secure property until the need is certain, which is upon award of the contract. This kind of policy favors the incumbent, who already has his facility, thereby limiting competition, and limiting the advantage of private sector contracting.

(3) Long waits for payment. Waits of a month or two are not unusual. This limits competition for contracts to larger firms with economic staying power.

(4) Excessive penalty provisions. A recent bid package contains a provision for liquidated damages in the amount of \$10,000.00 per day for each day the contractor might be late in inaugurating service.

(5) Quick cancellation clauses. Most of the service contracts locally contain unilateral cancellation clauses. The public agency would be allowed to cancel upon little or no notice should funding become unavailable, or for other reasons outside the contractor's sphere of influence.

Because the San Diego region has been on the leading edge of private sector contracting, I assume that the above barriers to entry are unintentional. Nonetheless, they limit entry while inflating public costs.

Despite some problems, evidence suggests that use of private service providers has been effective here. Shortly after the third service contract was let, the local transit union gave San Diego Transit a new "community based" wage rate, applicable only to new service contracts outside its

service area, of \$5.27 per hour. That compares to a top wage of over \$12.00 per hour. While it troubles me from a selfish point of view, such a concession is clear evidence that the bargaining unit can differentiate between monopoly and competition, and no doubt San Diego Transit may win some service contracts itself.

One note of caution: As the concept of private sector contracting gains discussion around the country, I am troubled by one perception that is fairly widespread. Many public officials see the role of the private firm as the provider, under contract, of small, low revenue, outlying services, possibly using small vehicles. While I have no difficulty with that use of the private sector, the implication seems to be that heavy line-haul fixed route urban service is the province, by reason of exclusive capability, of the public operator.

The facts speak otherwise. Around the country are many intercity and charter bus companies located in urban areas. The equipment they operate is generally as large and sophisticated as full size transit buses. Many procedures in maintenance, dispatching, scheduling, accounting, and labor relations are readily transferable. While no one in the private bus industry would argue that all the nation's transit systems should be ours to operate tomorrow, it is time for a full appreciation of the value of this resource toward the public goal of maximizing urban mobility.

Mr. ANDERSON. Our final panel consists of Mr. Roger Snoble, general manager of San Diego Transit Corp.; Mr. Brian Pearson, director of development of Orange County Transit District; Mr. Rudy Massman, director of public works, county of San Diego; and Mr. Craig Scott, the senior transportation planner, San Diego Association of Governments.

We have the prepared statement of Rudy Massman.

Mr. Massman, your prepared statement will be made a matter of the record.

I read the names—and it wasn't alphabetically, Snoble, Pearson, Massman, and Scott. Is that the order you want to appear or do you want to do it otherwise?

Mr. Snoble, I'll put you in charge of that.

Mr. SNOBLE. If I might suggest that Craig Scott go first because his basic duty is to explain the situation in San Diego County as it exists today, and that might be helpful—

Mr. ANDERSON. Craig Scott, the floor is yours.

TESTIMONY OF CRAIG SCOTT, SENIOR TRANSPORTATION PLANNER, SAN DIEGO ASSOCIATION OF GOVERNMENTS; RUDY MASSMAN, DIRECTOR OF PUBLIC WORKS, COUNTY OF SAN DIEGO; ROGER SNOBLE, GENERAL MANAGER, SAN DIEGO TRANSIT CORP.; AND BRIAN PEARSON, DIRECTOR OF DEVELOPMENT, ORANGE COUNTY TRANSIT DISTRICT

Mr. SCOTT. Thank you, Mr. Chairman.

Over the last several years, a significant amount of private sector involvement in San Diego County has been achieved, as has

been referred to several times before. I'd like to spend a few minutes giving you an overview of the San Diego case study in terms of how this private involvement has evolved and what it has meant to this region.

If we look back just about a dozen years to the early seventies, there were only three transit systems in the county with San Diego Transit being by far the largest. The other systems were Oceanside Transit, which eventually became the North County Transit District, and Chula Vista Transit, which was operated by a private contractor from its inception. Through the seventies and early eighties, we saw a significant expansion in terms of the number of systems with the growth of suburban fixed-route systems and general public dial-a-ride systems, as well as specialized elderly and handicapped systems. Those three systems back in the seventies have grown to 18 systems operating in San Diego County today.

There are probably two primary reasons why we have so many systems. The first and probably the most important reason is the availability of State transit funds. The Transportation Development Act [TDA] Program began back in fiscal year 1973 and provided funds for the support of transit services on a jurisdiction-by-jurisdiction basis according to population.

Once these funds became available to each jurisdiction, we began to see individual jurisdictions establishing their own local systems, with all but one of these new systems being operated through a private contract operator.

The other major reason for the increase in the number of separate systems was the increase in San Diego Transit's wage rates through the seventies. San Diego Transit contracted with adjoining suburban jurisdiction—and still does for that matter—on a cost-per-mile basis for those routes that extend beyond the city limits of San Diego into the adjoining jurisdiction.

The San Diego Transit labor agreement at that time included an automatic cost-of-living adjustment which during the high inflationary period of the mid-to-late seventies caused San Diego Transit's operating costs to increase dramatically. Because of this increase in the cost of their service contracts, several jurisdictions looked to private contractors as a way of reducing their costs.

Of the 18 systems we have today, 16 are provided totally by private contractors. Even the other two, San Diego Transit and North County Transit, provide a small portion of their services through private operators. It also should be pointed out that San Diego Transit and North County Transit are the only two systems in the county that use Federal funds. The other 16 systems are funded solely through State sources and therefore are not subject to the Federal requirements.

To give you a feeling of the magnitude of private operator involvement in San Diego, San Diego Transit and North County Transit, the region's largest two systems, account for about 90 percent of the passengers carried and 80 percent of the total miles operated. This means that private operators account for about 20 percent of overall miles of service and 10 percent of the region's transit riders.

During our last cycle of the State-required performance audits, the performance auditors cited this significant level of private con-

tractor involvement as being beneficial to the region for a number of reasons. The first being that the existence of private operators helped to control operating cost increases. Second, the existence of many small contracts has provided stability for the private sector. The opportunity to bid on these contracts from time to time has helped to expand the number of potential bidders. And, third, and probably most importantly, the involvement of private contractors has created a competitive environment in San Diego that has served as a catalyst for improvements in the publicly operated systems.

For example, as I mentioned before, the existence of these private operators and the competitive environment they have created is believed to have had a positive impact on San Diego Transit's labor negotiations over the last several years which have led to a number of productivity and efficiency improvements, including the ability to use part-time drivers and also the creation of a new classification of bus drivers that provides for a lower wage rate for new services. The performance auditors recommended that the region should certainly continue to use private operators and encourage growth in this area where it is in the best interest of the region.

However, the involvement of the private operators and the increase in the number of systems from 3 to 18 has not been without its costs in other terms—primarily in service coordination and the quality of service. A considerable amount of effort has been expended over the last several years to coordinate all of these multiple systems by developing a uniform fare structure, transfer agreements, and a unified public information system, in order to make it appear that, although we have 18 different systems, they're really functioning as one big system in a coordinated manner.

However, due to differing financial needs on the part of the operators, the fare structure is probably still more complex than we'd like it to be, and we still have some work to do to try to make it simpler to use for the general public. I'm afraid the system is still somewhat complex and maybe somewhat intimidating to an uninitiated transit rider in terms of trying to make a long trip involving transfers, different fare structures, transfer upgrade rates, and the like.

I think the experience in San Diego has shown that the private contractors can be a very cost effective way of providing transit services, at least for smaller fixed-route systems, and smaller dial-a-ride operations.

The question we've not answered yet is whether or not this level of cost effectiveness can be maintained as you get into larger systems of 50 to 100 buses and more.

Our performance auditors looked at this issue in terms of regional services. There are 10 routes that are primarily express, long-distance routes which make up the regional route network. These routes are currently provided by San Diego Transit. The performance auditors analyzed the potential cost savings in putting the package of regional services, requires about 75 vehicles, out on a competitive bidding basis versus continuing operation of this service by San Diego Transit. After looking at a number of factors, the auditors found no significant savings by providing these services on a competitive bidding basis, and, in fact, found a small cost saving

to the region overall by continuing to operate these services through San Diego Transit.

This whole issue will be addressed once again in detail through an economic feasibility study dealing with competitive bidding of these regional services. The study was required as part of legislation dealing with the Metropolitan Transit Development Board's [MTOB] acquisition of San Diego Transit. MTOB will be required to analyze the competitive bidding issue in more detail, with the results of the study leading to a policy by the MTOB as to how they would go about operating the regional services in the future.

In summary, I think the experience in San Diego has shown that private operators can play an important role as has been shown by the increasing involvement of private operators over the last several years. In addition to the numerous contract operators I have mentioned, we also have a significant number of jitney operations, which are solely private, unsubsidized services operating in the area.

The involvement of private operators has led to a competitive environment in this area that has benefited both the suburban areas by reducing their unit costs for service as well as the area served by San Diego Transit in that the competition has helped to keep San Diego Transit's operating costs down.

The approach being followed in this area is to maintain a balance of public and private systems. While trying to design a system that best fits the needs of the region, based both on quantitative factors, such as cost, as well as qualitative factors in terms of service quality, coordination, and ease of use by the riding public.

In general, we would be supportive of any proposal to increase our flexibility and to remove existing obstacles to maintaining the public/private balance in this area. We would also not be supportive of any additional requirements, such as mandates to specify a certain percentage of private operator involvement, that may really end up inhibiting our ability to make decisions locally and to maintain the balance of public and private operators that we have achieved.

This concludes my remarks.

Mr. ANDERSON. Mr. Massman.

Mr. MASSMAN. Mr. Chairman, I have prepared remarks, but ever since I've been hearing the testimony I've been itching to throw them in the trash can and get into this discussion. So, if you don't mind, I have some hints here, and I'd like to indicate what it is that we do.

I'm with the county of San Diego. We contract with three of the people providing testimony here today, Community Transit Systems, Southwest Coaches, and Roger Snoble. We interpret our role as, in part, being a nervous system.

We operate 11 of the 18 private systems. As I heard the conversations, I heard certain assumptions apparently being held by Congressman Anderson that I wanted to jump on.

We don't contract out the transit system. We contract out the operation and maintenance of buses. We run the transit system. The bus routes are our routes. The bus operators are not taking any risk with success of the system except that they can meet their

contract obligations, which is to provide a service at so much a mile, provide clean buses, and run on time.

The obnoxious contract provisions that you've heard talked about are ours. Those are the provisions whereby we maintain, with a very small staff, a control over what the contractor does for us. We have seen that we generally can offer savings with these contractors on the order of \$1.50 a mile, somewhere on that—it's looking like with the combination of bus costs and contractor costs we're running about \$1.43, would be putting us in the highest cost in the area.

And, we like to show that. We boast about it, we brag about it, and we point our finger at my friend Roger Snoble because his San Diego Transit has the highest cost in this region. We do this because we think that it is good for the community to see the advantages of competitive bidding.

What is it that we perceive in this private contracting? Several things. Lower costs for sure. Competition. The fact that you're not tied to a contractor if he turns out to be insolvent. The fact that if one contractor goes on strike, which we don't care to see, we've got another one to step into the breach. We're not tied to one organization. We can keep service going because it's not the contractor routes he is operating. It's our routes and we can keep the service going with a replacement. And we have done that.

I want to be sure that I'm making myself clear in that regard. When you've got an operator and you turn the entire system over to them, and I sense that your questions were working on that assumption, then presumably the transit system is the contractors obligation. In our contracts it isn't their system at all. They're performing a bus-operating service for us and I don't mean to denigrate it, but it's the same kind of limited contract service as maintaining buildings. We don't turn the selection of the routes, or the frequency of bus runs, or the time matching of routes over to the contractors. We monitor that.

You ask, does that take a big staff? No, it takes a small staff. Tom Evans was objecting to some of our obnoxious conditions which were all—every condition we ever put in a contract was learned from the experience of the previous contracts.

Every time we write a condition it's because we have had the bad experience. It's when a contractor didn't perform well that we had to want to get rid of him. It was when a contractor was running buses hot, arriving and going before the coach did, or cold, arriving too late for a match, that we really didn't want the contractor any more and we added tougher provisions for missing the required timing.

Was it a problem to have several operators running the system? The answer is no. There are a bunch of people who are running around this community today. I don't mean to expose San Diego's problems to you too much, who have a simplistic approach that it will all be well if you put all transit control into one organization. Nonsense.

Coordination is possible with multiple organization's responsible for transit. We've taken our model from other organizations and that have had multiple contracting agents. They do well. Coordination does not have to be turned over to one controller to happen.

I'm impatient with the argument that the only way to run things is with one agency in charge.

It doesn't matter if the buses are painted the same, either. It doesn't matter if they're the same size. I mean, all of those kinds of things seem to make people see differences, but they are of no fundamental consequence.

What we have found is that we have been able to contract system in different ways. We do something like this. We've got some lightly run routes or routes that run light at night. After a certain hour we run taxicabs instead of buses because the cabs are big enough for the traffic you're going to have.

We've got—I was going to say handicap, but that's the wrong word—physically disadvantaged routes where we contracted with the American Red Cross. They love to be in there competing because it put the words American Red Cross out there for the public to see and we have to require them to name us too, because they love to take the credit. But they do a good job.

Now, in running our routes, since you represent the Federal Government and I represent local government, we stay away from Federal money. It's tainted. Don't touch it. You're going to be in trouble if you do.

We don't operate with Federal bucks. When we build a transit station or something like that and use your Federal money, which is basically our money, then we find that the project takes 12 to 18 months or longer to do and all of us are unhappy with the slowdown.

So, I've taken to using the money. I've taken to using the moneys that we get from the Federal Government for things like recapping streets because nobody fights me on that so much and we are not delayed.

When we get involved in the environmental evaluation or what have you for a major project we experience a complete slowdown. It's harder to spend Federal money expeditiously.

We have been able to take money that we have—and I want to point out that something as to what we've done because this is a chance to get it into your record, and copied a phrase from our utilities.

From our telephone company, and our gas, and electric company we copied their words and we set up lifeline service. It's their word but we use it.

In the bus business, lifeline service is very fundamental transportation. A bus route is run maybe once a day, maybe only three times a week. It enables people to get to medical service or to buy groceries. To run this service we contracted with some neighborhood organizations which we set up as corporations. We ran through the process of incorporating and set up these community organizations to run lifeline service. We buy them vans, passenger vans, and they are run from our back country 70 miles away, maybe 3 days out of the week. They're proud of their service and they admit to the fact that maybe the county has something to do with it, but they run that service and we get that basic need cared for very economically.

Under lifeline we also include our physical need and disadvantaged service by contract with the Red Cross.

We have another level of service that we call Connectivity. That basically is the service where we are trying to get people everywhere that you could get to in an automobile, but nowhere at the frequency for go to work traffic. In other words, you could get there during the day, once in a while, but we're not trying to provide a passenger commuter service.

We have a third level which is community level service. We run express buses in the morning and in the evening, commute hours.

All of this service is run with contractors operating the buses, but none of it turns the equipment over to them as theirs. None of it turns the routes over to them. None of it turns the system over to them. We retain that system control all the time. We ask for a physical service level and we have found that by continuing to contract, by continuing to rebid, the competitive position—what was described to you earlier by Craig Scott, the county is a force, to keep prices down in our area.

I'll be happy to answer questions further.

Mr. ANDERSON. Mr. Snoble.

Mr. SNOBLE. My name is Roger Snoble. I am general manager of the San Diego Transit Corp. We are a corporation, we are not a—we do not really know what we are, unfortunately. We are a not-for-profit publicly owned corporation, but the courts always refer to us as a private not-for-profit corporation, so we are a sort of an unusual thing in the whole area of transit and transit providers.

For the record, I would like to say that the San Diego Transit Corp. has had no fares, even now, for the last 4 years. We are offering equivalent service as we did 4 years ago, not less, but a little bit more. Ridership has been increasing; it has been on a steady roll now for about the last 20 months at 2½ to 3 percent increase each time, as are all operators within San Diego County. The ridership is increasing.

And despite Federal cutbacks and things like that, we have been able or are able to provide the level of service we would like to provide. We certainly have not had the horror stories that you have heard about from other places—but, you know, we are a little bit different.

We are not opposed to private trolleys. You have heard testimony there are private operators surrounding us. We simply do not contract for private services ourselves.

We know from a demonstration grant, from many years of experience with various demonstration grants is that they are really great to institute a program, but once the demonstration grant runs out, somebody has got to fund the program if it is any good. And most of the time it is good and the public wants it and expects to have it continued, and therefore the burden of funding it on a continuing basis falls on local funds or farebox revenues.

So, in like manner, the fare transit services that we contracted for under Federal operating subsidies, the subsidies are gone away. Now we are maintaining those services through our own local funding sources. But we do not contract out for services for our fixed-route service because of a very strong provision in our labor contract which says we cannot contract out for services unless those services are operated by members of our local union and at the same provisions and wage rates that they have in the labor

contract, which prevents us from contracting directly for existing services.

Now, Rudy Massman and I go back 12 years, and we have had some pretty tough fights over those years and some large disagreements, but I think, Rudy, today you and I are probably talking the same kind of tune. Our cost increases and the fact that we are the most expensive and maybe the least expensive of all operators in San Diego County, I think the least expensive as far as Loma—but the fact that we are the largest loss operator in San Diego County is in large part due to the restrictions that we have placed on ourselves through receiving Federal operating funds.

We have received them since they were available in 1975; we have received capital funds since they were available in 1964. And we have always been under the provisions of UMTA and the other laws, and frankly, as the manager of a publicly owned system, or public system that is eligible for Federal funding, that many of the provisions in the Federal law are the things that have caused the increases in cost that we have heard so much today.

And looking to the private operator, which is a sensible way to go due to the circumstances we are in, we are looking at those kinds of options just because of the high costs associated, and many of those high costs have been brought about by regulations coming from UMTA and the Congress.

We are looking at very substantial labor restrictions from the Federal Government, both from the National Labor Relations Act standpoint, that we are a private employer, we fall under the National Labor Relations Act, the National Labor Standards Act, and all those kinds of acts. And we also have 13(c) and 13(c) simply means we cannot use Federal funding, displaces the workers. And so we have to have an agreement to be eligible for Federal funding pertaining with the labor union that is passed by the Department of Labor that qualifies us for having Federal funding.

Now, that same provision keeps us from contracting. So many of the provisions that we deal with under the Federal act are stopping us from being able to really deal with the real cost increases at hand, because that causes some of those cost increases. And they are causing to face the kind of situations that people are describing with large increases. And some would assert, only one, it will be better than others, but nevertheless there are substantial penalties from taking Federal money, and I am sorry for that.

Congressman Lowery is here, and Congressman Bates, they have heard me say it for years, it is approaching the level now where the money you get from the Federal Government does not cover the cost of the regulations that it imposes on us, so that we have substantial benefits for senior citizens, and disabled individuals, very liberally applied; the only problem with that, particularly, is that it is about a \$5 million price tag each year, and we only get \$6 million of Federal money. We have Buy American provisions, we have procurement provisions that tell us how we have to go about buying equipment that cost us a lot of money. And we have a lot of extra staff people on board because of those Federal provisions that we would not have if we were a private operator.

So basically, I think, if you really take a look at the problems the industry is facing from the cost standpoint, I think we have to look

at ourselves as managers, and also at yourself as Congress, and also for UMTA to do that whole thing, because many of the provisions are—forced us in relation to those cost increases that you have seen.

And everything that you have heard about privatization is a method by which to get around those provisions. Many of the people who on the private side are frustrated ex-public managers; they got tired of beating their head against the wall dealing with Federal regulations, and State regulations as well. They decided to try their hand in the private side, and I admire that. I may try that someday myself.

But nevertheless, I think the real situation is we are asked to deal with an unfair situation, and so things like privatization have come our way and have been brought about as a way to get around some of those regulations. So I would say the first place to really look in really helping out the transit industry is to take a look at your own set of regulations and see how those can be dealt with to give us a freer hand in dealing with our own costs.

Now, on the other hand, I think if you really take a look at what happens in the public agencies, every one of them is dedicated to running the best service they can possibly run.

They will do the right thing when it is necessary to do it. It may rile a little bit when—as other people would like to see it happen, but it will happen.

I really would support the position that this committee would take to take a look at reducing some of the restrictions around our neck as transit managers and letting the local option prevail, and letting the local localities take a look at their situation. You have heard many people refer to a lot of different situations throughout the country, and every one of them is different. The people who are best able to deal with a lot of those problems are the people that are living with it day to day and know the situation and they are able to respond to it.

So I would urge for allowing a great deal of local support, for allowing funding coming in from the Federal Government to be used in the best interests of the local area. And that may be letting capital funds be used for operating, or letting operating funds be used for capital at the discretion of the local area, what is a good investment. I think there's a substantial—to be able to use capital money to contract out services, unless they are absolutely new services, because you get into 13(c) problems, and you are going to get yourself caught in a little trick by trying to do that.

So the only way you can really do it is with new services, and frankly, there is not enough money available for us to really research and look at new services because we are trying to keep the buses there that are overcrowded on the street, and we got more people than we can handle on those buses to put in a new—as you suggested. It takes 18 to 24 months to develop them.

So, in the meantime, you're passing people up—

It is a difficult situation for us to be looking at, and the service is, I think, realistically, we are in a bind to really be able to do something like this, from both perspectives, even though the incentive is there in your better incentives. Probably one of the best incentives is knowledge, and letting the other regions know there is

such a thing as contracting, it is an option, along with a lot of other options available to transit authorities and public agencies to do the job.

Well, there is all kinds of things about privatization of the thing going on and on in the industry, and like I said, dealt with them longer than anybody because we have been pioneering in our region longer than anybody, and I am not going to address the issues of quality of service, because I believe that quality of service depends on the contract. The person letting the contract wants quality service, they are going to get quality service, because they are going to paint that into the RFP that Rudy was talking about.

So by and large you have quality service, and accident and safety, that I do not see is any different than anybody else, they operate in a like manner. And so I think you just have to really be careful in looking at the other side of the bill, and what are the administrative costs. You give up operating costs, and end up dealing with a big bureaucracy of a lot of different professionals and you end up getting yourself in a cross problem as well. And those professionals are really people, but when it gets down to it, we do not move anybody. The ones that are moving the people are the bus drivers and the mechanics that are keeping those buses going. And the money ought to be going there, on the street for moving people, and not for a whole bunch of people running around checking on each other.

So I think that is one of the pitfalls and one of the major ones that we ought to be careful of in dealing with these solutions. Basically my feeling is that. And by the way, half of these contractors have asked that I speak for them as well.

With that, I will yield to Mr. Pearson.

Mr. ANDERSON. Mr. Pearson.

Mr. PEARSON. Thank you, Roger.

Mr. Chairman, and committee members and staff, I am Brian Pearson. I am director of development for the Orange County Transit District. We are the transit operator in Orange County, CA.

As most of the policy issues related to my presentation have been thoroughly discussed so far, I would like to confine my comments, if I could, briefly, to OCTD's experience with privatization, including what we are now doing in that area and what we are considering for the future, and then answer any questions you might have.

First of all, OCTD operates four kinds of services in Orange County. We have a fixed-route system consisting of about 400 standard coaches. We operate an express bus system, or I should say we contract with Southern California Rapid Transit District for express bus operation into Los Angeles. We operate a dial-a-ride system consisting of about 130 small buses, and we have a very active ride share program. The ride sharing program in Orange County has grown rapidly in the last year and we look at our budget growing larger next year.

Just a couple of comments about each of these kinds of services as they relate to privatization. First of all, our fixed-route system is relatively static in terms of growth now. We do not see—based on our just adopted 5-year plan—we do not see any growth in our fixed-route system for the next 5 years. For that reason, along with some of the reasons that have been mentioned earlier, including

labor agreements, a substantial investment in fixed facilities and a route structure where because of the suburban nature of Orange County there is a great deal of interface between routes, we are not looking to privatization in the area of our fixed-route system.

In the other three areas, yes, we are actively now involved in privatization and see a substantial growth in that area in the future.

With respect to our dial-a-ride system, we do contract out that system entirely. We have four zones, four different contracts that are competitively bid each 2 years. A couple of features of that operation are slightly different, as was mentioned by Mr. Hornung, who is one of our contractors. We buy the vehicles, since we can get the Federal funds to purchase the vehicles; a private operator cannot. The contractor then provides the facilities and operates the system. We also perform the heavy maintenance on the vehicles, as the owners, where they perform the light maintenance.

They also keep the fares. We have found that that is a significant incentive to a private operator, and as a result we have a major innovation in Orange County called group loads in our dial-a-ride system, which has resulted in about a 35-percent increase in ridership over the last 2 years. That has worked very well in our case.

Our express bus system is, as I mentioned, largely contracted to the RTD. That also has not grown significantly in the last 2 years. One of the things that we are looking at, however, because our costs only went up less than 1½ percent in this current year, contrary to the situation described by Mr. Cox where costs are out of control, we have contained our costs well for the last couple of years.

But our services we have contracted to RTD we have not been able to contain under quality of services, and their costs that they pass on to us are going up about 14 percent this year. We are looking now, because of that, at contracting out to a private operator that express service. We are also looking in the future at a significant growth in express service. We are developing in Orange County now, concentrated employment centers that tend to serve or to attract employees from very long distances, and we are looking not only in the area of ride sharing where we work with major employers to set up van pooling and car pooling programs and bus commuter programs, but also perhaps getting involved in privately operated express services serving the major employers.

Over the next several years we are looking at developing exclusive bus-HOV facilities in freeway rights-of-way. This would be tied to a significantly expanded express bus, car pool, van pool program that would be a coordinated concept.

We feel very strongly that these privatized services are being implemented or considered simply because they are the most cost-effective way to provide the service. We are not sure, as Roger mentioned, that Federal legislation is going to change this although it might perhaps accelerate the degree of privatization. As also was mentioned earlier, the current UMTA Act and the privatization policy adopted by UMTA provides a tremendous amount of latitude already to contract with private operators. And once again, we are not sure that is essentially an entirely different proposition altogether. And frankly one that has tremendous productivity involved

in it, because of its high capacity abilities to carry large numbers of people. It would be a good chance to see that the system in ride-on, probably from our standpoint—the San Diego Transit Corp.—because we were precluded from contracting out through the labor contract and we are a Federal recipient. Our capital needs in the next 4 or 5 years are really rather meager and small, not enough so that we would really be able to do much on the operating side with equipment.

In addition to that, I think that our board would be real cautious of using a funding source that had a time period on it. We have always said that the major problem for the transit was a lack of a continuing predictable source of revenues so we know where we are particularly in the last 3 or 4 years at the Federal level. That is anybody's guess.

Last year, I recall, we did not get the Federal money until after our fiscal year was over with. And so it has been really difficult to try to manage when you do not know what your budget is going to be. So we really think that a predictable source of revenue is kind of critical for our operation. We could manage if we know what we have to manage with.

One of the things wrong with this kind of approach is that if you run out, you would have to scramble around looking for additional funds.

I would like to say, Congressman, that Orange County Transit System would consider using this approach. However, just with the caution that very often once legislation is passed and is turned into a set of operating guidelines by UMTA, very often things enter into that process, and it makes it very difficult and cumbersome to use the approach.

So with that caution, yes, in theory, we would consider using this approach. Although once again because we are unique since our capital needs have been largely met, we would have capital funds available to divert to operating if that were made available.

Mr. ANDERSON. So in your case, there would be pressure from H.R. 5165 for you to reduce spending on long-term capital needs, and use the funds to contract out?

Mr. PEARSON. As mentioned, assuming that we were expanding our express bus network, yes; we would.

Mr. ANDERSON. Now if you contract out for a service on a given route, do you not lose flexibility in your overall system in the ability to shift buses from one route or region to another to meet fluctuating demands?

Mr. MASSMAN. No.

Mr. ANDERSON. Why not?

Mr. MASSMAN. Because you write your contracts so that you can run the bus wherever you want to run it. It is so simple. I said before you are not turning the route over to the contractor. You are operating buses miles or hours maintained. You tell them to go on a different street if that is what you have to do. You start a different route.

There seems to be implicit in the question, if I might challenge you, that you have them take the system. You do not have them take the system, or we do not have them take the system. You

have them provide you a service wherever you ask for it. So your contract allows you to change it.

Mr. ANDERSON. In other words then, suppose you have given somebody a contract to serve a given route from several communities up to another one, and then you find that you need it someplace else, can you shift that over there without any problem, is that in the contract?

Mr. MASSMAN. Yes.

Mr. ANDERSON. Might you be concerned that H.R. 5165 could place too great an emphasis on the performance of each individual route and detract from the consideration of your systemwide needs, is it the same answer for that?

Mr. PEARSON. No; I do not think so. Again for the same reason that we would look at our total system needs and contract out for that private contractor to deliver a certain amount of services under certain conditions. It would be up to us once again to establish the appropriate service level and make sure that it was properly interfaced with the balance of the system.

Mr. ANDERSON. So when one of these contractors then takes over a particular route, and they figure so many hours or whatever it is, then if you feel that there is a greater need, they are willing to move right over there and pick up in that other area as part of the contract, that is the way that the contracts are written?

Mr. MASSMAN. Let me respond to that, Mr. Chairman. Visualize a situation where Ace Systems ran a route for us and Rocky Snivel ran another route. And the two routes were supposed to be at the same point, so that the people coming home from work could get off of his bus and get on the bus that was being run for us.

And because of other problems in scheduling, say they had to change their scheduling. I am referring to an incident that occurred a year or two ago. OK, it so happened then that if we stuck with our original schedule, our bus would have come and gone before his arrived. No problem. We would change the schedule and work it out. So I think that I am being responsive to your question. You can make your changes.

Mr. SNOBLE. Mr. Chairman, if I just might add on to that. In San Diego County, we have an overall coordination activity what is the responsibility of the Metropolitan County Development Board where the operators had agreements between them. And we agreed to coordinate schedules and off the same pass, so that the passenger does not really know that there is a difference between the systems that they get on. We all issue transfers for each other's systems.

So there is a coordinated system, and it is MCD's responsibility, and each of our individual responsibility is there to see that the system works as a system. And whoever operates the bus makes no difference in the fashion.

Mr. ANDERSON. Now under the provisions of the proposal, the amount of the Federal grant that is contracted out cannot exceed the amount that would be awarded were the transit property simply to purchase buses itself.

Would that seem to require that a transit property go out and bid for new buses in addition to requesting bids for a private service?

Mr. PEARSON. Once again, it would not in our case, because we would specifically be looking at contracting out services only for new express services, which means that the private operator would constitute that new service.

Mr. ANDERSON. Well, let me go back then. This proposal requires that the amount of the Federal grant that is contracted out cannot be greater than the amount that would be awarded were the transit property simply to purchase buses itself. Now that is in the provision.

Would that require to allow this comparison to be made, that a transit property go out and bid for new buses in addition to requesting bids for the private service?

Mr. SCHLESINGER. To determine the size of the contract.

Mr. PEARSON. No; I do not think so. I think that the market is fairly well established in terms of knowing what new buses cost. Most agencies have fairly recent track records, and the costs could be established without having to go through the process itself.

Mr. ANDERSON. Mr. Massman.

Mr. MASSMAN. I do not know if I am fully responsive to your question. One thought that has occurred to me which is contrary to some of the testimony offered by the private operators is that when we figure our overall end costs, one of the things that we figure is the salvage value of the buses that we have purchased. And we know that at the end that we can sell them, and there is still something to come off of the cost because we own that capital value.

If you have turned that particular capital value over to the private sector, we lose that and they gain that. And we kind of like the idea of not losing that.

Mr. SNOBLE. Does not the bill refer to section 3, discretionary funds as well?

Mr. MOODY. No.

Mr. ANDERSON. These are just the points that I am raising that he can think of when he rewrites this bill.

Now there is obviously some political appeal to contract out to the private sectors.

Are you concerned that local political pressure might be so great that you would be forced to contract out even if it were unwise purely from a transportation standpoint?

Mr. PEARSON. At Orange County Transit, we feel that the staff has sufficient opportunity to present the data on the choices of different courses of action or different policies.

Mr. ANDERSON. But the political pressure of the private operators would not be such to force that kind of thing?

Mr. PEARSON. No, sir.

Mr. ANDERSON. In other words, you feel that is no problem.

Mr. SCHLESINGER. I am just wondering how Mr. Snoble would respond to that.

Mr. SNOBLE. I would say that there is an awful lot of appeal and there is political pressure particularly in the more conservative areas of San Diego that say, well, gee, the privatization is great at any cost, and I am a little bit cautious of that approach, because I think that we need to look at total regional cost.

I know that there are some cases where we have lost the services of San Diego Transit because of the way that the money comes in

and the way our service is made up, and because our fixed costs many of which are mandated by both State and Federal law. That it has been advantageous for the city involved to contract with the private operators, but it has cost the region more. Because our services went up. We had fewer miles to spare. Because of this crossover, our costs went up and were much bigger, and everybody had to pay a higher cost per mile.

The actual net result was that the region paid more money, so that one little segment of the service could cost less. I think that we have to be cautious of that. That is why we suggest that you take a look at it on a regional basis and systemwide basis and cost advantage and disadvantage.

This one little area of the system could be very attractive and could look very nice. But then on the other side it has all other kinds of cost. And sometimes they do not tend to be looked at.

Mr. ANDERSON. Mr. Massman.

Mr. MASSMAN. Mr. Chairman, I have been dragged through the grand jury a couple of times. I have had contractors who did not get a contract, pressure pretty violently to get a contract, I have been questioned in closed session, why do you want to take the bloodshed when maybe you could have a permanent system and avoid all of that.

We have continued to say that it seems to yield us the service competitively at a low cost. And it has been worth it, and we have survived so far.

Mr. ANDERSON. Mr. Moody, the floor is yours.

Mr. MOODY. Thank you, Mr. Chairman. I will start with Mr. Snoble.

I certainly take your point that we need to look at all of the downsides if there are any. But are you not basically saying that the Federal Government program has rigidities and extra flexibilities such as this one, one minor perhaps?

But is this a flexibility that you perceive other colleagues in the industry like ourself might want to use; is that the bottom line of what you are saying after you look at the cautionary side?

Mr. SNOBLE. Well, I think that my natural tendency is to be very cautious about any regulation or provision that the Federal Government is going to throw back into the pot. Because all of this is supposed to help us. And everytime that I am confronted by folks arguing about something that evicts somebody moved in a bus, and I see all of those roadblocks. I think is this trying to help us, because it is really hindering us.

So my natural reaction is that we do not need a whole lot more help, guys, you know.

Mr. MOODY. Well, let me ask you, do you support the 3 for 2 trade-in sir?

Mr. SNOBLE. Yes; we do support it.

Mr. MOODY. Well, that is the same base, allowing you to switch between funding categories. You have these categories of funding, and it may not match your categories of need in the most close mesh. There are allowances in the \$3 for \$2 in these categories, what \$3 for \$2 is all about.

One of the criticisms is that it allows flexibility that may result in a capital raid to paraphrase the chairman's question. It is a

little hard to argue that it may allow a capital raid and at the same time that this is a flexibility that you do not need. That is sort of arguing two opposite ends of the argument.

I know that you are not arguing both. I am just saying if you support the \$3 for \$2 and not justifying a lot of other Federal things that have happened to you, but I am asking you to judge this bill and what may eventually end up being part of the bill. But just adding more flexibility, tell me what is the problem?

Mr. SNOBLE. Well, the first thing is exactly the same thing. As I said earlier, what we would like obviously is to be able to not have the restrictions as far as capital operating on those funds, they come in as a block grant type of thing, and have the local area decide what the best way to spend those funds are.

And the local area has all of the options available to them. If they want to go to the private side, they can go to the private side. If they want to buy capital, they can do that. They can do whatever they want. It is total flexibility at that point. So I would really like to see flexibility.

Mr. MOODY. What if we do not go that far. We are moving toward this but this proposal will give you a degree of freedom that you do not now have.

Mr. SNOBLE. Well, that is true. I just would like to see that opened up farther. Why should it just be focused on privatization. There are a host of other issues that would be available to the transit agencies to really attack the problems that they have specifically, and certainly could be encouraged to look at the private sector side and other options as well.

Mr. MOODY. What you are saying is that this does not go far enough, not that there is a hidden mickey in the drink here.

Mr. SNOBLE. All I am saying is we would be for more flexibility on the funds coming from the Federal Government between the mix of operating and capital. And provisions beyond that, I think starts to force us to go ways that a local area may not decide to go.

Mr. MOODY. You know that there is nothing forcing in this bill.

Mr. SNOBLE. Oh, I understand.

Mr. MOODY. OK.

Mr. SNOBLE. It always is an option in the way to go as written, that if we did not want to exercise the option that it is no big deal. And it is there to exercise as we wish.

Mr. MOODY. That gets us into the next question, the chairman's question, which I think is a very important one.

Since it does give you an extra degree of option, do you fear the political pressure that would follow that option that would force you into a contract that might be unwise. Nobody says that a contract is always the best way to go. I am not sure that I heard your answer to the chairman's question.

Mr. SNOBLE. Well, as far as we are concerned in our situation, it could not force us because we could not do it anyhow. We would have to have one of the other agencies in San Diego to do it.

Mr. MOODY. Your 13(c) problems, you described. Since you do not plan new service, it is a moot point for you.

Mr. SNOBLE. It is a moot point for us. In some areas, it could be a substantial political problem. And in others, it may not. I can only answer that adequately that from our standpoint, it would not.

Mr. MOODY. Because in fact you are not into new services.

Mr. SNOBLE. Even new services. The union would have an argument to go forward to Federal court again, and we just got out of Federal court. So they would still have the argument. So I am not really sure where it would go in our case. But there would be other cases across the country.

Mr. MOODY. You have what sounded like a very restrictive labor situation to negotiate in your contract. This is not just 13(c). It sounds as though you have contract language that prohibits you and almost ties your hand in this regard, is that not correct?

Mr. SNOBLE. As far as contracting out specifically, that is correct.

Mr. MOODY. It is not 13(c) pure and simple, it is also a contract agreement?

Mr. SNOBLE. Yes; there are both of them. Most transit properties do have provisions that say, you know, that you cannot contract. Some of them have gotten around it a little bit. Denver, for example, has just got it out altogether.

So it is possible somewhere that we may be able to remove that from the labor contracts. I would say in our case that that is a long way off.

Mr. MOODY. I assume that you agree with me that there is nothing in my bill that abrogates 13(c)—that it leaves 13(c) alone.

Mr. SNOBLE. Well, I do not know. I am trying to figure out in my mind that if we applied for Federal money to operate contract services, and then somebody bringing the issue up, well, that is replacing existing employees or hurting employees, because of the fact that they would no longer have the same seniority, or the same benefits, and wages that are available to them. They might be able to make a 13(c) issue out of it and come back.

I am not really a 13(c) attorney. I really do not like to talk about 13(c).

Mr. MOODY. Do you have a 13(c) provision in State law so that State money is subcontracted for earlier, this is State money, not Federal, there is no comparable provision in State law in California?

Mr. SNOBLE. Some of the transit districts have similar types of labor provisions, but they all fall under the 13(c) provision of the Federal Government. In the State of California, the Metropolitan Transit Development Board, for example, who operates Charlie, has provisions in their State enabling legislation that refers to 13(c) and say that labor unions have substantially the same protection that is provided under 13(c).

And that kind of ties it together, I think. So if the MTD, for example, were to try to contract out services, I think that there could be an argument. And all I am saying is that it would cause me to really check the ramifications of 13(c) out in actually implementing your proposal, because it may actually disallow people.

Mr. MOODY. A good point. The chairman mentioned earlier a concern that is very valid about whether or not this would amount to reducing spending on capital around the Nation when we have heard a lot of in Washington about capital needs.

Now outside from the fact that it is not mandatory but voluntary, once you assume that there might be a political force pressing you to contract when you really ought not to, I think that it is still

a valid question, even though we are talking about a voluntary provision. But for the record, if you would like to make a comment, I would appreciate it.

Although I am not a witness, I want to put in the record, if the chairman would allow me, a summary of unobligated 1975 through 1983 formula funds with total and operating balances as of the end of fiscal year 1984. And it shows that there is a total unused formula amount nationwide of over \$1 billion.

Although I do not know exactly what that is all about, it seems to indicate that there may be some less than full demand for the capital that is out there.

[Mr. Moody submitted the following for the record:]

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63-03-85
LMD-2
DISC 36

SUMMARY OF UNOBLIGATED FY 75-83 FORMULA FUNDS
TOTAL AND OPERATING BALANCES
AS OF THE END OF FY 1984
\$ IN 1000'S

U20 SIZE GROUP	FY 75-81 LAPSED TO LMD'S	FY 75-81 TMT MGS FOR OPERATING	FY 82 SEC 5 AVAILABLE FOR OPERATING	FY 82 SEC 5 OPERATING	FY 83 SEC 5 AVAILABLE FOR OPERATING	FY 83 SEC 5 OPERATING	FY 84 SEC 9 AVAILABLE FOR OPERATING	SEC 9A AVAILABLE FOR OPERATING	SEC 18 AVAILABLE FOR OPERATING	TOTAL FORMULA OPERATING	FY 1985 OPERATING CAP	FORMULA AVAILABLE FOR OPERATING AS % OF CAP
OVER 1 BILLION	610,879	610,887	65,816	62,928	647,181	65,386	628,258	644,266	624,244	607,568	6065,224	18.15
200M-1BILLION	602,764	602,667	625,534	617,284	635,913	632,137	614,448	644,268	637,281	6295,948	6173,683	66.85
UNDER 200M	605,744	605,719	651,619	632,874	677,588	641,586	6134,617	667,474	625,259	6353,175	6111,891	162.68
NON UNOBLIGATED AMOUNT									654,568	651,142	654,568	651,142
TOTAL	602,737	607,793	652,969	632,686	6186,914	683,429	6439,663	6186,088	636,824	61,012,875	6874,288	32.36

ADJUSTMENTS ——— 637,635

AS REPORTED TO TREASURY ——— 61,645,118

TABLE A
TOTAL UNOBLIGATED FORMULA GRANTS BALANCES AT THE END OF FY 1985
COMPARED TO THE FY 1985 FORMULA GRANTS APPORTIONMENT
BY UZA SIZE GROUP
IN 1985'S

BOAETT
LBP-22
FORMOIST
DISC 836
83-Mar-85

UZA SIZE GROUP	FY 75-81 FY 82				FY 83				TOTAL				TOTAL UNOBLIGATED FORMULA					
	SEC 5	SEC 5	SEC 5	SEC 5	SEC 5	SEC 5	SEC 5	SEC 5	PERCENT	SEC 9	PERCENT	SEC 9A	PERCENT	SEC 10	UNOBLIGATED FORMULA	PERCENT	*85 APPORT.	AS PERCENT OF *85 APPORT.
OVER 1 MILLION	618,059	625,818	647,101	662,146	677,960	613A,617	613A,617	613A,617	37.25	628,598	44.15	624,244	25.75		637,568	38.45	61,762,943	17.35
200K-1 MILLION	922,764	928,534	925,913	911A,211	911A,211	911A,211	911A,211	911A,211	31.25	914A,448	28.35	937,281	41.85		925,948	29.25	9395,382	74.85
UNDER 200K	625,744	621,619	677,960	618A,263	618A,263	618A,263	618A,263	618A,263	51.65	613A,617	25.95	625,259	32.35		633,179	34.95	6219,485	161.85
NON UNOBLIGATED AMOUNT														654,568	654,568	5.45	671,778	76.65
TOTAL	966,727	975,971	1,051,974	1,084,520	1,084,520	1,084,520	1,084,520	1,084,520	100.00	1,084,520	100.00	1,084,520	100.00	1,084,520	1,084,520	100.00	62,449,588	41.35

ADJUSTMENTS 636,975

AS REPORTED TO TREASURY 61,843,658

BARNETT
LBP-22
83-40-85
UNOPE
2:50 36

TABLE B
SUMMARY OF UNOBLIGATED FY 75-83 FORMULA FUNDS
TOTAL AND OPERATING BALANCES
AS OF THE END OF FY 1984
IN 1000'S

	FY 75-81 LAPSED TO AVAILABLE UNOPE	FY 82 SEC 5 AVAILABLE FOR OPERATING	FY 83 SEC 5 AVAILABLE FOR OPERATING	FY 84 SEC 5 AVAILABLE FOR OPERATING	FY 84 SEC 9A AVAILABLE FOR OPERATING	SEC 18 AVAILABLE FOR OPERATING	SEC 18 TOTAL UNOPE FORMULA	TOTAL FORMULA OPERATING	FY 1985 OPERATING COP	FORMULA AVAILABLE FOR OPERATING AS % OF COP
OVER 1 BILLION	618,229	65,816	62,528	647,181	664,266	624,244	687,368	6186,187	6585,224	18.15
200M-1 BILLION	682,764	635,534	617,204	655,915	644,448	637,281	6295,940	6115,676	6172,865	66.85
UNDER 200M	629,744	651,619	632,874	677,506	667,474	629,299	653,179	6181,973	6111,891	162.65
FOR UNOBLIGATED FUNDS	692,737	652,969	632,606	680,594	676,208	690,824	654,568	651,142	6476,288	52.35
TOTAL	692,737	652,969	632,606	680,594	676,208	690,824	654,568	651,142	6476,288	52.35

ADJUSTMENTS----- 636,975

AS REPORTED TO TREASURY----- 61,843,859

Mr. MOODY. There are unobligated section 9 and 18 funds. And we assume that those are mostly capital funds. I do not think that we know of people who have turned back unused operating funds. I believe there are some, but I think that it is safe to assume that those are virtually all capital funds.

I think that it is a real interesting number, that \$1.0212 billion is sitting unobligated in what seems to be capital money.

Furthermore, many systems seem to have stockpiled buses. The nationwide average spare ratio of spares to operating buses is not 36 spares for every 100 operating buses.

Now do you have any comment on that, the spares and excess capital?

Mr. SNOBLE. That is a pretty heavy spare fleet. We have a heavy spare fleet here too. But the reason for having that is because we have extraordinary movements that we have to do periodically that we need that kind of local service. So actually our fleet is not measured from the standpoint of the regular service on the street, but it is measured at the time that we need buses.

For example, we're concerned with putting 110 buses on the street, and that wasn't easy.

Mr. MOODY. Mr. Pearson, I am just going to ask you if you have any comments on either of the last two points that I made. One, on political pressure that might build up undue levels to contract when you really should not; and second, do you think on capital needs, that we may be hearing some overstatement on capital needs?

Mr. PEARSON. Let me first address the question. I do not think of Orange County in terms of excessive political pressure. We feel that the staff has the opportunity to present a technical point of view, to simply look at the issue from a cost-effectiveness perspective, what is the most appropriate way to go and because of that we could counter any excessive political pressure. I do not see in Orange County anyone forcing us to go with the private sector. We will go to the private sector because that is the most logical course of action to take.

With regard to capital needs, we in fact like Roger, because our fixed-route system is not growing, have basically completed the capital plant that we require. We do not see any major capital expenditures in the future except for replacement buses.

Our spares ratio is high now, because we were among the unfortunate number of properties that purchased Flxible 870 and we are now trying to dispose of about 65 of them. But until we do, they remain as part of our spares fleet.

Mr. MOODY. That may be part of that.

Mr. MASSMAN. Our problem is not pressure from contract. We are 100 percent contract now. Our political pressure is which contractor we select, which, as you will recognize, is a different problem.

I would like to comment on the capital for a moment. Various funds are being available for capital, and I realize that time is running. But I would like to indicate to you that just because I want you to walk away knowing this—in California, Federal urban dollars are selling for 55 cents on the dollar if people will trade them for clean California dollars.

What I am describing to you is up and down this State, taking that Federal money is considered to be so much a disincentive that people that have a right to them are willing to give them away for 55 cents.

Mr. MOODY. Can't we sell some—

Mr. MASSMAN. It can be treated by appropriate action through the State. There are various people who so much want to avoid the Federal dollars that they say, "I will give you my share of Federal dollars if you give me some good clean California money."

Mr. SNOBLE. Mr. Moody, I would like to—the question of the capital money that hasn't been claimed.

Capital needs are at stake in this country. I think everybody will tell you that, and if you hadn't had the 29 million bucks sitting in that fund—we will take you to San Diego, and it will be of really good use to you real quick.

That kind of money that can get a rail system that is going to come back with an 80-percent-plus recovery is an awfully good investment.

So I would suggest that if we have that kind of money sitting out there, we've got—for it.

It's easy just to say, OK, send it to San Diego, and we will send it there.

Mr. PEARSON. I would like to add to that, if I could.

I think we are talking about section 9 capital funds and the kind of funds that we generally used to build major new facilities like exclusive bus lanes require section 3 funds which is what San Diego would require for its trolley—

UMTA views those as distinctly different funds and very often there may be funds not fully used in the section 9 program, because our capital needs tend to go up and down depending on when we're replacing buses.

But if, in fact, we had more money available to build major new facilities, like exclusive bus/carpool lanes on freeways, that money would be used immediately.

So, it depends on how the categories are established and—

Mr. MOODY. You have to go to section 3 right now, I suppose?

Mr. PEARSON. Section 3, of course, is way, way oversubscribed, but section 9 might be underused.

Mr. SCOTT. If I could add one comment on unobligated balances. I've seen figures like that used on both the operative and capital sides. While we have all our section 9 money programmed, for example, we have a significant amount of section 9 money programmed for the trolley, these funds have not shown up as being obligated yet. We are involved in a lengthy environmental alternatives analysis process and the funds programmed for the trolley will not show up as obligated funds until UMTA signs off on the alternatives.

So we do use our section 9 funds and have a program for their use. It won't show up in the UMTA figures as being obligated before the environmental process is complete due to the lag in the grant approval process.

Mr. MOODY. Mr. Chairman, I would just conclude my portion of time by saying that I think it has been a very laudable exercise to hear these very knowledgeable people come and tell us real-life

problems and real-life perspectives on what is still a theoretical concept. We get a very rarified atmosphere in Washington sometimes. We tend to hear from the same set of voices inside the beltway and we tend to hear from special interest groups that are well-represented on Capitol Hill.

Mr. ANDERSON. What he means is I listen to him all the time. [Laughter.]

Mr. MOODY. So, I think hearing from the academic representative, hearing from varying points of view, of the operators' hands-on experience and private and public sectors has been very, very valuable. I would applaud the chairman's wisdom in having this hearing in San Diego.

Thank you again, Mr. Chairman.

Mr. ANDERSON. And with that, I want to thank you very much. I do have a 1:30 flight. I may make it, but I do want to thank Mr. Massman, Mr. Pearson, Mr. Snoble, Mr. Scott, for an excellent presentation. I do think it was a very good hearing, and so thank you all very much.

The hearing is adjourned.

[Mr. Massman's prepared statement follows:]

STATEMENT OF RUDY MASSMAN

Chairman Glenn Anderson, and members of the subcommittee, thank you for inviting San Diego County to present testimony on transit services provided by the private operator.

The County of San Diego, through the Department of Public Works, manages a variety of transit services which are divided into three distinct categories, lifeline, connectivity, and commuter.

A. LIFELINE SERVICE

The definition of lifeline service is transportation service for individuals needing medical care or shopping trips. This service is provided at least once a day, three days per week.

1. *Rural bus.*—The County manages two Rural Bus Systems in the northeast and southeast portions of San Diego County by agreement with local community organizations who hire drivers, dispatchers, and bookkeepers. Seven 14-passenger vans are utilized. The rate for these systems averages \$13.18 per vehicle service hour.

The revenue for this service is from the State Transportation Development Act (TDA) funds which are a portion of the state sales tax specifically designated for transit purposes.

2. *Wheels.*—Another lifeline service we manage is the WHEELS program, an elderly and handicapped transportation service using lift-equipped mini buses. This service is provided by a private operator through the competitive bid process. The current rate is \$20.22 per vehicle revenue hour, the operator provides the vehicles. This WHEELS service, managed by the County, operates in the unincorporated area in the east county suburban area, as well as three east county cities and two cities in the south bay area.

The funding is provided by Transportation Development Act (TDA) Article 4.5 funds, which are reserved for elderly and handicapped transportation services.

B. CONNECTIVITY SERVICE

The definition of connectivity service is a transportation service that provides public transit for individuals to get anywhere in the service area fairly regularly, but not rapidly enough to commute to work efficiently.

1. *Suburban bus.*—The largest transit service provided by the County Transit System is the suburban bus service which operates in the eastern suburban county and three cities. The system is composed of five transit routes and operates nine County-owned buses 435,000 revenues miles per year. The rate determined through competitive bids is currently \$1.71 per revenue mile. This service is funded through TDA funding.

2. *East county transit.*—In conjunction with the suburban bus service, we manage the east county transit service with operator-owned 14 passenger vans. These vans operate on the five suburban routes in the evening when the ridership is lower and also on another route all day. This TDA funded service is less expensive than the suburban bus service, \$1.02 per revenue mile.

3. *Poway route deviation.*—The County manages the Poway Route Deviation service for the City of Poway. This service is a fixed route service with limited deviations available along each route. The 21 passenger mini buses are owned and operated by the contractor under a three year agreement to provide service for \$22.74 per revenue hour.

4. *Poway dial-a-ride.*—The County also manages a dial-a-ride service for Poway in the portion of the city without bus service.

5. *Poway airport service.*—The City of Poway requested the County to manage and contract with private operators to provide a subsidized airport shuttle service from Poway to San Diego Lindbergh Field, approximately a 25 mile trip.

C. COMMUTER SERVICE

The definition of commuter service is transportation service that provides peak period transit service to work in an efficient manner.

1. *Express bus service.*—Through special state legislation, the County is permitted to manage and operate express bus service in the region crossing jurisdictional city limits and operating either in cities or the unincorporated areas. The County TDA funds are eligible for this express bus service where we operate seven round trips operated daily along three routes connecting north San Diego County and Centre City San Diego.

The contract operator provides the intercity coaches and operation of the service for \$2.45 per revenue mile.

D. PRIVATE SECTOR INVOLVEMENT IN TRANSIT

Each of the transit services managed by the County of San Diego are operated by the private sector; in fact, most of these services are provided through the competitive bidding process.

There are three primary reasons for providing transit service by contract:

1. We can determine if we are getting the lowest operating cost.
2. We are able to provide another contractor quickly in the event of shut-down or strike by the contract operator.

3. We had an opportunity to replace a contractor who performs poorly.

Public transit operators, through provisions in Section 3(e) of the Urban Mass Transportation Act, may be eligible to bid on our transit contracts with the private operator.

In the suburban bus service the County manages, we recently purchased nine new buses for the contractor to operate and maintain. We are amortizing these buses over 15 years and paying off a five year loan through the County. Therefore, the County will have the salvage value of the fleet at the time of vehicle replacement.

E. COUNTY TRANSIT SYSTEM COMPARISON WITH PUBLIC OPERATOR

The suburban bus service we provide with County-owned buses can be compared with the primary publicly-owned transit provider in the San Diego region.

The contractor currently operates County-owned buses for \$1.71 per revenue mile. The buses are being amortized at \$0.24 per revenue mile and the County administration and management is equivalent to \$0.30 per revenue mile. This total County Transit System operation then would be \$2.25 per revenue mile. In comparison, the primary publicly-owned transit cost is \$3.68 per revenue mile using UMTA funds together with State TDA funds.

Therefore, the difference in cost is approximately \$1.43 per revenue mile.

[Whereupon, at 1 p.m., the hearing adjourned.]

ADDITION TO THE RECORD

STATEMENT OF JAMES LA SALA, INTERNATIONAL PRESIDENT AMALGAMATED TRANSIT UNION

My name is Jim La Sala and I am International President of the Amalgamated Transit Union, AFL-CIO. The ATU represents approximately 160,000 public transit workers in the United States and Canada. Most of these are employed as bus drivers and maintenance and clerical personnel in the urban mass transit industry.

We appreciate the opportunity to appear before this Committee to present our views on proposals to permit public transit operators to purchase transit service from private operators with federal capital assistance.

As discussed herein, the ATU opposes both recent legislative proposals and the new policy directives of the UMTA which seek to expand the availability of federal funds for the subcontracting of public transit services to private operators. Before setting forth the basis for our opposition to these approaches, I would like to briefly summarize the ATU's general position on the federal transit program and the directions in which we believe the government should continue proceeding to insure a strong, responsive federal transit program, serving the needs of the nation's communities.

First, the ATU believes that the federal government must continue to play a strong central role in the shaping and development of urban mass transportation policy. We view the provision of such services as a national problem, requiring a well defined federal policy funded, of course, in partnership with state and local governments. This federal role requires

a program providing both capital and operating assistance, and one which recognizes that conventional transportation systems lie at the core of the national transportation network, subject to federal standards and requirements. Our support, indeed the industry's and all interested parties' support for the STA Act of 1982, reflected this approach. We therefore could not accept an evolving transportation policy that sought to replace the federal role in favor of a policy designed to primarily fund private and other operators under federal or separate state and local level programs to provide service in competition with established public regional transportation authorities.

The ATU also believes that you cannot confine the federal role to capital investment alone, while leaving to state and local governments and transit users the entire burden of funding transit operations. Farebox revenues can and have increased, but there are limits to any premise that additional increases are the best way to offset rising transit costs. The history under private enterprise was always for ever diminishing ridership from round after round of fare increases and service reductions. After years of experience with this downward spiral, it would be unwise to adopt federal policies under which this experience would only be repeated under public ownership. Similarly, it is not in the nation's interest to respond to growing financial pressures by proposing cutbacks and phase-outs of operating assistance and the turn back of transit programs to state and local

governments for solutions. The federal role is, and should remain, one designed to stimulate transit initiatives and activity at the state and local level by a strong, adequately funded federal program. We believe the record is now clear that federal operating assistance as a necessary complement to capital funding has been largely responsible for the transformation of a dying, profit motive public utility enterprise into the tax supported, service oriented industry owned and operated by the general public that we have today.

The record in public transit over the last ten years is one of increasing productivity and significantly reduced labor costs. In fact, in recent testimony before this Subcommittee on proposals to extend the STA Act, we cited numerous studies which have established that over the last ten years, transit wage and other operating costs have increased at a lower rate than costs for other public employees. At the same time, systems have experienced productivity increases in all measures of transit service. APTA's recently released study, "Transit Performance and Productivity, 1975-80," further confirms this trend.

In preparation for this hearing, we reviewed the recent report issued by the Advisory Commission on Intergovernmental Relations on transit in the 1980's. We note that the Commission report, which seeks to stress an expanded role for paratransit and private transit operations as a way of containing costs within the industry, notes that there is no conclusive evidence that labor costs are necessarily higher on

public than on private systems. In fact, the Commission cited one study which concluded that public ownership of smaller size transit authorities can lead to greater productivity than a multitude of private operations.

Finally, before turning to the specifics of recent legislative proposals for subcontracting transit service, we offer these comments on the role of paratransit in the context of overall transportation policy in the 1980's.

The ATU has supported the need for paratransit and other alternative services to respond to unique community needs as a useful adjunct to conventional transit service. We have long been on public record in support of efforts to introduce paratransit concepts and to promote new forms of urban mass transportation as part of the total transportation network. We have not opposed the funding of such paratransit services as shared ride taxis, vanpools and carpools, subscription services and other user site subsidies, provided only that the rights and interests of our members under Section 13(c) are properly protected before these services are operated. We look with particular favor upon any form of paratransit which promises to improve the quality and reach of our traditional transit systems and services. We believe, however, that these conventional line haul systems, which today carry over 95 percent of all transit riders, still are, and continue to lie, at the heart of any effective regional system of urban mass transportation.

As a matter of transportation policy, it is important that paratransit modes fill their proper role so that they do not detract from the performance of the central system. Government planning and funding of paratransit services should always consider how these services may affect the operations of conventional transit systems. Many hard issues of policy are, of course, presented by the injection of paratransit elements in a total transportation system. From the viewpoint of organized labor, the introduction of each of these paratransit services does give rise to concern that their ultimate effect, and maybe their intention, may be to destroy conventional transit jobs and to undercut transit workers' wages and working conditions by substituting an unpaid or low wage, casual or part time non-union labor force for the better paid, career oriented professional transit worker. In our judgment, the working out of many of these concerns is properly a matter to be addressed under Section 13(c) by the Secretary of Labor in the exercise of his jurisdictional mandate to provide guidelines and criteria to govern in the many situations that may arise.

Our own review of some 900 transit grants processed by the ATU over the last two years indicates that no paratransit, vanpool or other specialized project failed to receive funding because of 13(c) requirements. In fact, since January 1984, over 100 such projects were approved with negotiated 13(c) agreements in cities throughout the United States.

In sum, we recognize that there is a need to provide for a variety of transit needs, in different ways. However, as a matter of federal policy and priority, federal funds should be primarily directed to those systems that serve the majority of the riding public. Diverting funds to profit seeking private operators detracts from this effort and ultimately undermines the ability of the public system to serve broad based community needs. Further, funding a multitude of operators leads to fragmented service creating burdensome scheduling, route, fare and other administrative problems

With regard to Congressman Moody's proposal, we believe it would result in a counterproductive allocation of scarce federal resources. The specific formula scheme appears to inexplicably favor private enterprise over public operations. In the long run, it would siphon off needed capital funds for operating purposes. While many systems have sufficiently satisfied their capital needs, most cities have millions of dollars of unmet capital equipment, maintenance and other expenses which require attention.

In the long term, we believe this proposal would tend to reduce overall federal funding commitments to tax supported public transit services and thereby detract from the policies of the act to provide mobility for all citizens. We also believe that preferential federal tax support of private enterprise-for-profit entities will distort state, local and regional transportation funding decisions and impair the political consensus and budgetary support for needed public sector services.

Past experience has demonstrated, as stated earlier, that competitive bidding of service procurement contracts in the transit industry is unsuited to public needs for cost efficient and effective service. Truly competitive conditions are often non-existent.

In addition, we believe that the thrust of this proposal, and other schemes to make additional federal monies available for subcontracting of public transit services to private operators, is to create an undesirable emphasis upon unfair wage competition between private and public enterprises and between union and non-union labor. We do not believe that the federal transit program should be designed to undercut existing wage and benefit levels in the transit industry. This position is underscored by the fact that the existing labor protections of the Act, as presently interpreted by the Reagan Administration, do not provide adequate protection of employee rights and interests in subcontracting of work situations.

Finally, we believe the measure fails to define and limit the criteria for services eligible to receive funding under this proposal.

Mr. Chairman, we are cognizant of the Committee's interest in exploring ways in which the federal transit program can be improved and expanded to provide better and more effective service. We are prepared to work with this Committee and the industry to seek solutions to the problems related to improving service, productivity and system

efficiency. We have made substantial progress in these areas already. However, to embark on a policy of funding private operators in competition with public operators does not, in our view, guarantee the long term improvements we are all seeking.

We would also like to take this opportunity to state our objections to the October 1984 UMTA policy statement on "Private Enterprise Participation" in public transit service, referred to earlier.

This policy, too, assumes without justification that it is in the public interest to support a vast array of new private operators providing not just adjunct services for the special needs of the transit disadvantaged, such as the elderly and the handicapped and other unique community needs, but mainstream transit services operating in direct competition with established regional transportation authorities. The inevitable result of this approach is to weaken the structure of the established regional systems and undermine their financial base and resources. We further object to the policy's attempt to require transit agencies to reexamine their existing service with the goal of contracting out certain route segments. The most likely result would be the establishment of private providers on only the most lucrative or densely situated and travelled routes, thereby denying necessary revenue for the public providers committed to serving their communities broader transit needs.

In conclusion, Mr. Chairman, the ATU believes that those supporters seeking an increase in the availability of federal funds for the contracting out of public transit service are basing their case on selected examples which do not provide a basis for developing a new broad national policy in this area, nor one which would justify increasing the availability of existing federal dollars to support these operations. We believe that if the private sector seeks to involve itself in public transit service, it should do so without drawing upon federal funds needed to support broad-based community public systems.

Thank you.

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